

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1767
93RD GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, May 2, 2006, with recommendation that the Senate Committee Substitute do pass.

4977S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 192.925, 197.500, 198.006, 198.070, 198.090, 198.532, 208.909, 208.912, 208.915, 210.145, 210.183, 210.482, 210.565, 210.570, 210.580, 210.595, 210.600, 210.610, 210.762, 210.906, 211.319, 211.444, 453.010, 453.011, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 570.145, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.512, 660.620, 660.625, 660.600, 660.603, 660.605, and 660.608, RSMo, and to enact in lieu thereof seventy-three new sections relating to protections for senior citizens, disabled persons, and children, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 192.925, 197.500, 198.006, 198.070, 198.090, 198.532, 208.909, 208.912, 208.915, 210.145, 210.183, 210.482, 210.565, 210.570, 210.580, 210.595, 210.600, 210.610, 210.762, 210.906, 211.319, 211.444, 453.010, 453.011, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 570.145, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 660.416, 660.418, 660.420, 660.512, 660.620, 660.625, 660.600, 660.603, 660.605,
10 and 660.608, RSMo, are repealed and seventy-three new sections enacted in lieu
11 thereof, to be known as sections 192.925, 192.2000, 192.2001, 192.2003, 192.2006,
12 192.2009, 192.2012, 192.2015, 192.2025, 192.2030, 192.2033, 192.2035, 192.2040,
13 192.2100, 192.2103, 192.2106, 192.2109, 192.2112, 192.2115, 192.2118, 192.2121,
14 192.2124, 192.2127, 192.2130, 192.2150, 192.2153, 192.2175, 192.2178, 192.2181,
15 192.2184, 192.2187, 192.2200, 192.2203, 192.2206, 192.2209, 192.2212, 192.2215,
16 192.2218, 192.2221, 192.2224, 192.2227, 192.2250, 192.2253, 197.101, 198.006,
17 198.090, 198.532, 198.700, 198.703, 198.705, 198.708, 208.909, 208.912, 210.145,
18 210.183, 210.482, 210.565, 210.570, 210.580, 210.762, 210.906, 211.319, 211.444,
19 453.010, 453.011, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 565.320,
20 and 570.145, to read as follows:

192.925. 1. To increase public awareness of the problem of elder abuse
2 and neglect **and financial exploitation of the elderly**, the department of
3 health and senior services shall implement an education and awareness
4 program. Such program shall have the goal of reducing the incidences of elder
5 abuse and neglect **and financial exploitation of the elderly**, and may focus
6 on:

7 (1) The education and awareness of mandatory reporters on their
8 responsibility to report elder abuse and neglect **and financial exploitation of**
9 **the elderly**;

10 (2) Targeted education and awareness for the public on the problem,
11 identification and reporting of elder abuse and neglect **and financial**
12 **exploitation of the elderly**;

13 (3) Publicizing the elder abuse and neglect hot line telephone number;

14 (4) Education and awareness for law enforcement agencies and
15 prosecutors on the problem and identification of elder abuse and neglect **and**
16 **financial exploitation of the elderly**, and the importance of prosecuting cases
17 pursuant to chapter 565, RSMo; and

18 (5) Publicizing the availability of background checks prior to hiring an
19 individual for caregiving purposes.

20 2. The department of social services and facilities licensed pursuant to
21 chapters 197 and 198, RSMo, shall cooperate fully with the department of health
22 and senior services in the distribution of information pursuant to this program.

[660.050.] **192.2000.** 1. The "Division of Aging" is hereby transferred
2 from the department of social services to the department of health and senior

3 services by a type I transfer as defined in the Omnibus State Reorganization Act
4 of 1974. **All references in the revised statutes of Missouri to the division**
5 **of aging shall include any division or divisions established by the**
6 **department as a successor division or divisions to the division of**
7 **aging.** The division shall aid and assist the elderly and low-income handicapped
8 adults living in the state of Missouri to secure and maintain maximum economic
9 and personal independence and dignity. The division shall regulate adult
10 long-term care facilities pursuant to the laws of this state and rules and
11 regulations of federal and state agencies, to safeguard the lives and rights of
12 residents in these facilities.

13 2. In addition to its duties and responsibilities enumerated pursuant to
14 other provisions of law, the division shall:

15 (1) Serve as advocate for the elderly by promoting a comprehensive,
16 coordinated service program through administration of Older Americans Act
17 (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;

18 (2) Assure that an information and referral system is developed and
19 operated for the elderly, including information on the Missouri care options
20 program;

21 (3) Provide technical assistance, planning and training to local area
22 agencies on aging;

23 (4) Contract with the federal government to conduct surveys of long-term
24 care facilities certified for participation in the Title XVIII program;

25 (5) Serve as liaison between the department of health and senior services
26 and the Federal Health Standards and Quality Bureau, as well as the Medicare
27 and Medicaid portions of the United States Department of Health and Human
28 Services;

29 (6) Conduct medical review (inspections of care) activities such as
30 utilization reviews, independent professional reviews, and periodic medical
31 reviews to determine medical and social needs for the purpose of eligibility for
32 Title XIX, and for level of care determination;

33 (7) Certify long-term care facilities for participation in the Title XIX
34 program;

35 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec.
36 505(d) for Supplemental Security Income recipients in long-term care facilities
37 and serve as the liaison between the Social Security Administration and the
38 department of health and senior services concerning Supplemental Security

39 Income beneficiaries;

40 (9) Review plans of proposed long-term care facilities before they are
41 constructed to determine if they meet applicable state and federal construction
42 standards;

43 (10) Provide consultation to long-term care facilities in all areas governed
44 by state and federal regulations;

45 (11) Serve as the central state agency with primary responsibility for the
46 planning, coordination, development, and evaluation of policy, programs, and
47 services for elderly persons in Missouri consistent with the provisions of
48 subsection 1 of this section and serve as the designated state unit on aging, as
49 defined in the Older Americans Act of 1965;

50 (12) With the advice of the governor's advisory council on aging, develop
51 long-range state plans for programs, services, and activities for elderly and
52 handicapped persons. State plans should be revised annually and should be
53 based on area agency on aging plans, statewide priorities, and state and federal
54 requirements;

55 (13) Receive and disburse all federal and state funds allocated to the
56 division and solicit, accept, and administer grants, including federal grants, or
57 gifts made to the division or to the state for the benefit of elderly persons in this
58 state;

59 (14) Serve, within government and in the state at large, as an advocate
60 for elderly persons by holding hearings and conducting studies or investigations
61 concerning matters affecting the health, safety, and welfare of elderly persons and
62 by assisting elderly persons to assure their rights to apply for and receive
63 services and to be given fair hearings when such services are denied;

64 (15) Provide information and technical assistance to the governor's
65 advisory council on aging and keep the council continually informed of the
66 activities of the division;

67 (16) After consultation with the governor's advisory council on aging,
68 make recommendations for legislative action to the governor and to the general
69 assembly;

70 (17) Conduct research and other appropriate activities to determine the
71 needs of elderly persons in this state, including, but not limited to, their needs
72 for social and health services, and to determine what existing services and
73 facilities, private and public, are available to elderly persons to meet those needs;

74 (18) Maintain and serve as a clearinghouse for up-to-date information and

75 technical assistance related to the needs and interests of elderly persons and
76 persons with Alzheimer's disease or related dementias, including information on
77 the Missouri care options program, dementia-specific training materials and
78 dementia-specific trainers. Such dementia-specific information and technical
79 assistance shall be maintained and provided in consultation with agencies,
80 organizations and/or institutions of higher learning with expertise in dementia
81 care;

82 (19) Provide area agencies on aging with assistance in applying for
83 federal, state, and private grants and identifying new funding sources;

84 (20) Determine area agencies on aging annual allocations for Title XX and
85 Title III of the Older Americans Act expenditures;

86 (21) Provide transportation services, home-delivered and congregate
87 meals, in-home services, counseling and other services to the elderly and
88 low-income handicapped adults as designated in the Social Services Block Grant
89 Report, through contract with other agencies, and shall monitor such agencies to
90 ensure that services contracted for are delivered and meet standards of quality
91 set by the division;

92 (22) Monitor the process pursuant to the federal Patient
93 Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which
94 information is provided to patients concerning durable powers of attorney and
95 living wills.

96 3. The division director, subject to the supervision of the director of the
97 department of health and senior services, shall be the chief administrative officer
98 of the division and shall exercise for the division the powers and duties of an
99 appointing authority pursuant to chapter 36, RSMo, to employ such
100 administrative, technical and other personnel as may be necessary for the
101 performance of the duties and responsibilities of the division.

102 4. The division may withdraw designation of an area agency on aging only
103 when it can be shown the federal or state laws or rules have not been complied
104 with, state or federal funds are not being expended for the purposes for which
105 they were intended, or the elderly are not receiving appropriate services within
106 available resources, and after consultation with the director of the area agency
107 on aging and the area agency board. Withdrawal of any particular program of
108 services may be appealed to the director of the department of health and senior
109 services and the governor. In the event that the division withdraws the area
110 agency on aging designation in accordance with the Older Americans Act, the

111 division shall administer the services to clients previously performed by the area
112 agency on aging until a new area agency on aging is designated.

113 5. Any person hired by the department of health and senior services after
114 August 13, 1988, to conduct or supervise inspections, surveys or investigations
115 pursuant to chapter 198, RSMo, shall complete at least one hundred hours of
116 basic orientation regarding the inspection process and applicable rules and
117 statutes during the first six months of employment. Any such person shall
118 annually, on the anniversary date of employment, present to the department
119 evidence of having completed at least twenty hours of continuing education in at
120 least two of the following categories: communication techniques, skills
121 development, resident care, or policy update. The department of health and
122 senior services shall by rule describe the curriculum and structure of such
123 continuing education.

124 6. The division may issue and promulgate rules to enforce, implement and
125 effectuate the powers and duties established in this section [and sections 198.070
126 and 198.090, RSMo, and sections 660.250 and 660.300 to 660.320], **section**
127 **192.2100 and sections 192.2175 to 192.2187, and section 198.090,**
128 **RSMo.** Any rule or portion of a rule, as that term is defined in section 536.010,
129 RSMo, that is created under the authority delegated in this section shall become
130 effective only if it complies with and is subject to all of the provisions of chapter
131 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
132 536, RSMo, are nonseverable and if any of the powers vested with the general
133 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
134 or to disapprove and annul a rule are subsequently held unconstitutional, then
135 the grant of rulemaking authority and any rule proposed or adopted after August
136 28, 2001, shall be invalid and void.

137 7. Missouri care options is a program, operated and coordinated by the
138 [division of aging] **department**, which informs individuals of the variety of care
139 options available to them when they may need long-term care.

140 8. The division shall, by January 1, 2002, establish minimum
141 dementia-specific training requirements for employees involved in the delivery of
142 care to persons with Alzheimer's disease or related dementias who are employed
143 by skilled nursing facilities, intermediate care facilities, residential care facilities,
144 agencies providing in-home care services authorized by the [division of aging]
145 **department**, adult day-care programs, independent contractors providing direct
146 care to persons with Alzheimer's disease or related dementias and the [division

147 of aging] **department**. Such training shall be incorporated into new employee
148 orientation and ongoing in-service curricula for all employees involved in the care
149 of persons with dementia. The department of health and senior services shall,
150 by January 1, 2002, establish minimum dementia-specific training requirements
151 for employees involved in the delivery of care to persons with Alzheimer's disease
152 or related dementias who are employed by home health and hospice agencies
153 licensed by chapter 197, RSMo. Such training shall be incorporated into the
154 home health and hospice agency's new employee orientation and ongoing
155 in-service curricula for all employees involved in the care of persons with
156 dementia. The dementia training need not require additional hours of orientation
157 or ongoing in-service. Training shall include at a minimum, the following:

158 (1) For employees providing direct care to persons with Alzheimer's
159 disease or related dementias, the training shall include an overview of
160 Alzheimer's disease and related dementias, communicating with persons with
161 dementia, behavior management, promoting independence in activities of daily
162 living, and understanding and dealing with family issues;

163 (2) For other employees who do not provide direct care for, but may have
164 daily contact with, persons with Alzheimer's disease or related dementias, the
165 training shall include an overview of dementias and communicating with persons
166 with dementia.

167 As used in this subsection, the term "employee" includes persons hired as
168 independent contractors. The training requirements of this subsection shall not
169 be construed as superceding any other laws or rules regarding dementia-specific
170 training.

[660.060.] **192.2001.** All authority, powers, duties, functions, records,
2 personnel, property, contracts, budgets, matters pending and other pertinent
3 vestiges of the division of aging shall be transferred to the department of health
4 and senior services.

[660.053.] **192.2003.** As used in [section 199.025, RSMo, and sections
2 660.050 to 660.057 and 660.400 to 660.420] **sections 192.2000 to 192.2012 and**
3 **sections 192.2200 to 192.2227**, the following terms mean:

4 (1) "Area agency on aging", the agency designated by the division in a
5 planning and service area to develop and administer a plan and administer
6 available funds for a comprehensive and coordinated system of services for the
7 elderly and persons with disabilities who require similar services;

8 (2) "Area agency board", the local policy-making board which directs the

- 9 actions of the area agency on aging under state and federal laws and regulations;
- 10 (3) "Director", the director of the division of aging of the Missouri
- 11 department of [social] **health and senior** services;
- 12 (4) "Division", the division of aging of the Missouri department of [social]
- 13 **health and senior** services;
- 14 (5) "Elderly" or "elderly persons", persons who are sixty years of age or
- 15 older;
- 16 (6) "Disability", a mental or physical impairment that substantially limits
- 17 one or more major life activities, whether the impairment is congenital or
- 18 acquired by accident, injury or disease, where such impairment is verified by
- 19 medical findings;
- 20 (7) "Local government", a political subdivision of the state whose authority
- 21 is general or a combination of units of general purpose local governments;
- 22 (8) "Major life activities", functions such as caring for one's self,
- 23 performing manual tasks, walking, seeing, hearing, speaking, breathing, learning,
- 24 and working;
- 25 (9) "Medicaid", medical assistance provided under section 208.151, RSMo,
- 26 et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the
- 27 Social Security Act (42 U.S.C. 301 et seq.), as amended;
- 28 (10) "Protective services", a service provided by the [Missouri division of
- 29 aging] **department** in response to the need for protection from harm or neglect
- 30 to eligible adults under sections [660.250 to 660.295] **192.2100 to 192.2130**;
- 31 (11) "Registered caregiver", a person who provides primary long-term care
- 32 for an elderly person and wishes to receive information, services or support from
- 33 the shared care program;
- 34 (12) "Shared care", a program administered by the [division of aging]
- 35 **department** in which Missouri families who provide primary long-term care for
- 36 an elderly person and register as a shared care member with the [division of
- 37 aging] **department** shall receive access to certain supportive services and may
- 38 receive a state tax credit;
- 39 (13) "Shared care community project", a project in a community that offers
- 40 to help support shared care participation through development of programs;
- 41 (14) "Shared care member", a registered caregiver or shared care provider
- 42 who registers with the [division of aging] **department** in order to participate in
- 43 the shared care program;
- 44 (15) "Shared care provider", any state authorized long-term care provider

45 in the state, including, but not limited to, in-home, home health, hospice, adult
46 day care, residential care facility I or II, or nursing home, who voluntarily
47 registers with the [division of aging] **department** to be available as a resource
48 for the shared care program;

49 (16) "Shared care tax credit", a tax credit to registered caregivers who
50 meet the requirements of section [660.055] **192.2009**.

[660.054.] **192.2006**. 1. The [division of aging of the] department of
2 [social] **health and senior** services shall establish a program to help families
3 who provide the primary long-term care for an elderly person. This program shall
4 be known as "shared care" and has the following goals:

5 (1) To provide services and support for families caring for an elderly
6 person;

7 (2) To increase awareness of the variety of privately funded services which
8 may be available to those persons caring for an elderly person;

9 (3) To increase awareness of the variety of government services which may
10 be available to those caring for an elderly person;

11 (4) Recognition on an annual basis by the governor for those families
12 participating in the shared care program and community project groups
13 participating in the shared care program;

14 (5) To provide a tax credit to members who meet the qualifications
15 pursuant to section [660.055] **192.2009**; and

16 (6) To promote community involvement by:

17 (a) Providing local communities information about the shared care
18 program and to encourage the establishment of support groups where none are
19 available and to support existing support groups, and other programs for shared
20 care members and providers to share ideas, information and resources on caring
21 for an elderly person; and

22 (b) Encouraging local home care, adult day care or other long-term care
23 providers, who have regularly scheduled training sessions for paid caregivers, to
24 voluntarily invite shared care members to participate in education and training
25 sessions at no cost to the registered caregivers. Such providers shall not be held
26 liable in any civil or criminal action related to or arising out of the participation
27 or training of shared care members in such sessions.

28 2. To further the goals of the shared care program, the director shall:

29 (1) Promulgate specific rules and procedures for the shared care
30 program. Any rule or portion of a rule, as that term is defined in section 536.010,

31 RSMo, that is created under the authority delegated in sections [660.050 to
32 660.057] **192.2000 to 192.2012** shall become effective only if it complies with and
33 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
34 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is
35 of no force and effect and repealed. Nothing in this section shall be interpreted
36 to repeal or affect the validity of any rule filed or adopted prior to August 28,
37 1999, if it fully complied with all applicable provisions of law. This section and
38 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
39 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
40 date or to disapprove and annul a rule are subsequently held unconstitutional,
41 then the grant of rulemaking authority and any rule proposed or adopted after
42 August 28, 1999, shall be invalid and void;

43 (2) Maintain a registry of names and addresses of shared care members
44 and shared care providers;

45 (3) Compile a list, updated annually, of public and private resources,
46 services and programs which may be available to assist and support the
47 registered caregiver with caring for the elderly. Such list shall be given to shared
48 care members along with information on shared care providers in their
49 community. Private organizations and providers shall be responsible for
50 providing information to the [division of aging] **department** for inclusion on the
51 list. The [division of aging] **department** shall establish reporting procedures for
52 private organizations and publicly disseminate the [division's] **department's**
53 guidelines statewide;

54 (4) Compile and distribute to shared care members information about the
55 services and benefits of the shared care program and a bibliography of resources
56 and materials with information helpful to such members. The bibliography will
57 give members an overview of available information and is not required to be
58 comprehensive;

59 (5) Encourage shared care providers, consumer groups, churches and other
60 philanthropic organizations to help local communities develop local support
61 systems where none are available and to support existing support groups for
62 persons caring for elderly persons and make [division] **department** staff
63 available, if possible;

64 (6) In conjunction with the director of revenue, develop a physician
65 certification for shared care tax credit form to be given to registered caregivers
66 upon request. The form shall require, but is not limited to:

67 (a) Identifying information about the registered caregiver for tax
68 purposes, and the signature of the registered caregiver certifying that he or she
69 qualifies for the shared care tax credit as provided in section [660.055] **192.2009**;

70 (b) Identifying information about the elderly person receiving care for
71 verification purposes;

72 (c) Identifying information about and the signature of the physician
73 licensed pursuant to the provisions of chapter 334, RSMo, for verification and
74 certification purposes;

75 (d) A description by such physician of the physical or mental condition of
76 the elderly person that makes them incapable of living alone and lists the care,
77 assistance with daily living and oversight needed at home in order to prevent
78 placement in a facility licensed pursuant to chapter 198, RSMo; and

79 (e) A complete explanation of the shared care tax credit and its guidelines
80 and directions on completion of the form and how to file for the shared care tax
81 credit with the department of revenue; and

82 (7) In conjunction with the director of revenue, develop a [division of
83 aging] **department** certification for shared care tax credit form to be given at the
84 request of the registered caregivers when a [division of aging] **department**
85 assessment has been completed for other purposes. The form shall require, but
86 is not limited to:

87 (a) Identifying information about the registered caregiver for tax
88 purposes, and the signature of the registered caregiver certifying that he or she
89 qualifies for the shared care tax credit as provided in section [660.055] **192.2009**;

90 (b) Identifying information about the elderly person receiving care for
91 verification purposes;

92 (c) Identifying information about and the signature of the [division of
93 aging] **department** staff for verification and certification purposes;

94 (d) A description by the [division of aging] **department** staff of the
95 physical or mental condition of the elderly person that makes them incapable of
96 living alone and lists the care, assistance with daily living and oversight needed
97 at home in order to prevent placement in a facility licensed pursuant to chapter
98 198, RSMo; and

99 (e) A complete explanation of the shared care tax credit and its guidelines
100 and directions for completing the form and how to file for the shared care tax
101 credit with the department of revenue.

102 3. Funds appropriated for the shared care program shall be appropriated

103 to and administered by the department of [social] **health and senior** services.

[660.055.] **192.2009.** 1. Any registered caregiver who meets the
2 requirements of this section shall be eligible for a shared care tax credit in an
3 amount not to exceed five hundred dollars to defray the cost of caring for an
4 elderly person. In order to be eligible for a shared care tax credit, a registered
5 caregiver shall:

6 (1) Care for an elderly person, age sixty or older, who:

7 (a) Is physically or mentally incapable of living alone, as determined and
8 certified by his or her physician licensed pursuant to chapter 334, RSMo, or by
9 the [division of aging] **department** staff when an assessment has been
10 completed for the purpose of qualification for other services; and

11 (b) Requires assistance with activities of daily living to the extent that
12 without care and oversight at home would require placement in a facility licensed
13 pursuant to chapter 198, RSMo; and

14 (c) Under no circumstances, is able or allowed to operate a motor vehicle;
15 and

16 (d) Does not receive funding or services through Medicaid or social
17 services block grant funding;

18 (2) Live in the same residence to give protective oversight for the elderly
19 person meeting the requirements described in subdivision (1) of this subsection
20 for an aggregate of more than six months per tax year;

21 (3) Not receive monetary compensation for providing care for the elderly
22 person meeting the requirements described in subdivision (1) of this subsection;
23 and

24 (4) File the original completed and signed physician certification for
25 shared care tax credit form or the original completed and signed [division of
26 aging] **department** certification for shared care tax credit form provided for in
27 subsection 2 of section [660.054] **192.2006** along with such caregiver's Missouri
28 individual income tax return to the department of revenue.

29 2. The tax credit allowed by this section shall apply to any year beginning
30 after December 31, 1999.

31 3. Any rule or portion of a rule, as that term is defined in section 536.010,
32 RSMo, that is created under the authority delegated in sections [660.050 to
33 660.057] **192.2000 to 192.2012** shall become effective only if it complies with and
34 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
35 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is

36 of no force and effect and repealed. Nothing in this section shall be interpreted
37 to repeal or affect the validity of any rule filed or adopted prior to August 28,
38 1999, if it fully complied with all applicable provisions of law. This section and
39 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
40 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
41 date or to disapprove and annul a rule are subsequently held unconstitutional,
42 then the grant of rulemaking authority and any rule proposed or adopted after
43 August 28, 1999, shall be invalid and void.

44 4. Any person who knowingly falsifies any document required for the
45 shared care tax credit shall be subject to the same penalties for falsifying other
46 tax documents as provided in chapter 143, RSMo.

[660.057.] **192.2012.** 1. On and after August 13, 1984, an area agency
2 on aging shall operate with local administrative responsibility for Title III of the
3 Older Americans Act, and other funds allocated to it by the [division]
4 **department**. The area agency board shall be responsible for all actions of an
5 area agency on aging in its jurisdiction, including, but not limited to, the
6 accountability for funds and compliance with federal and state laws and
7 rules. Such responsibility shall include all geographic areas in which the area
8 agency on aging is designated to operate. The respective area agency board shall
9 appoint a director of the area agency on aging in its jurisdiction. [Beginning
10 January 1, 1995,] The director of the area agency on aging shall submit an
11 annual performance report to the [division] **department** director, the speaker
12 of the house of representatives, the president pro tempore of the senate and the
13 governor. Such performance report shall give a detailed accounting of all funds
14 which were available to and expended by the area agency on aging from state,
15 federal and private sources.

16 2. Each area agency on aging shall have an area agency on aging advisory
17 council, which shall:

18 (1) Recommend basic policy guidelines for the administration of the
19 activities of the area agencies on aging on behalf of elderly persons and advise the
20 area agency on aging on questions of policy;

21 (2) Advise the area agency on aging with respect to the development of the
22 area plan and budget, and review and comment on the completed area plan and
23 budget before its transmittal to the [division] **department**;

24 (3) Review and evaluate the effectiveness of the area agency on aging in
25 meeting the needs of elderly persons in the planning and service area;

26 (4) Meet at least quarterly, with all meetings being subject to sections
27 610.010 to 610.030, RSMo.

28 3. Each area agency board shall:

29 (1) Conduct local planning functions for Title III and Title XX, and such
30 other funds as may be available;

31 (2) Develop a local plan for service delivery, subject to review and
32 approval by the [division] **department**, that complies with federal and state
33 requirements and in accord with locally determined objectives consistent with the
34 state policy on aging;

35 (3) Assess the needs of elderly persons within the planning and service
36 delivery area for service for social and health services, and determine what
37 resources are currently available to meet those needs;

38 (4) Assume the responsibility of determining services required to meet the
39 needs of elderly persons, assure that such services are provided within the
40 resources available, and determine when such services are no longer needed;

41 (5) Endeavor to coordinate and expand existing resources in order to
42 develop within its planning and service area a comprehensive and coordinated
43 system for the delivery of social and health services to elderly persons;

44 (6) Serve as an advocate within government and within the community at
45 large for the interests of elderly persons within its planning and service area;

46 (7) Make grants to or enter into contracts with any public or private
47 agency for the provision of social or health services not otherwise sufficiently
48 available to elderly persons within the planning and service area;

49 (8) Monitor and evaluate the activities of its service providers to ensure
50 that the services being provided comply with the terms of the grant or
51 contract. Where a provider is found to be in breach of the terms of its grant or
52 contract, the area agency shall enforce the terms of the grant or contract;

53 (9) Conduct research, evaluation, demonstration or training activities
54 appropriate to the achievement of the goal of improving the quality of life for
55 elderly persons within its planning and service area;

56 (10) Comply with [division] **department** requirements that have been
57 developed in consultation with the area agencies for client and fiscal information,
58 and provide to the [division] **department** information necessary for federal and
59 state reporting, program evaluation, program management, fiscal control and
60 research needs.

61 4. [Beginning January 1, 1995,] The records of each area agency on aging

62 shall be audited at least every other year. All audits required by the Older
63 Americans Act of 1965, as amended, shall satisfy this requirement.

[660.058.] **192.2015.** 1. The [division of aging] **department** shall
2 provide budget allotment tables to each area agency on aging by January first of
3 each year. Each area agency on aging shall submit its area plan, area budget and
4 service contracts to the [division of aging] **department** by March first of each
5 year. Each April, the area agencies on aging shall present their plans to the
6 [division of aging] **department** in a public hearing scheduled by the [division]
7 **department** and held in the area served by the area agency on aging. Within
8 thirty days of such hearing, the [division] **department** shall report findings and
9 recommendations to the board of directors for the area agency on aging, the area
10 agency on aging advisory council, the members of the senate budget committee
11 and the members of the house appropriations committee for social services and
12 corrections.

13 2. Each area agency on aging shall include in its area plan performance
14 measures and outcomes to be achieved for each year covered by the plan. Such
15 measures and outcomes shall also be presented to the [division] **department**
16 during the public hearing.

17 3. The [division of aging] **department** shall conduct on-site monitoring
18 of each area agency on aging at least once a year. The [division of aging]
19 **department** shall send all monitoring reports to the area agency on aging
20 advisory council and the board of directors for the area agency which is the
21 subject of the reports.

[660.062.] **192.2025.** 1. There is hereby created a "State Board of Senior
2 Services" which shall consist of seven members, who shall be appointed by the
3 governor, by and with the advice and consent of the senate. No member of the
4 state board of senior services shall hold any other office or employment under the
5 state of Missouri other than in a consulting status relevant to the member's
6 professional status, licensure or designation. Not more than four of the members
7 of the state board of senior services shall be from the same political party.

8 2. Each member shall be appointed for a term of four years; except that
9 of the members first appointed, two shall be appointed for a term of one year, two
10 for a term of two years, two for a term of three years and one for a term of four
11 years. The successors of each shall be appointed for full terms of four years. No
12 person may serve on the state board of senior services for more than two
13 terms. The terms of all members shall continue until their successors have been

14 duly appointed and qualified. One of the persons appointed to the state board of
15 senior services shall be a person currently working in the field of
16 gerontology. One of the persons appointed to the state board of senior services
17 shall be a physician with expertise in geriatrics. One of the persons appointed
18 to the state board of senior services shall be a person with expertise in
19 nutrition. One of the persons appointed to the state board of senior services shall
20 be a person with expertise in rehabilitation services of persons with
21 disabilities. One of the persons appointed to the state board of senior services
22 shall be a person with expertise in mental health issues. In making the two
23 remaining appointments, the governor shall give consideration to individuals
24 having a special interest in gerontology or disability-related issues, including
25 senior citizens. Four of the seven members appointed to the state board of senior
26 services shall be members of the governor's advisory council on aging. If a
27 vacancy occurs in the appointed membership, the governor may appoint a member
28 for the remaining portion of the unexpired term created by the vacancy. The
29 members shall receive actual and necessary expenses plus twenty-five dollars per
30 day for each day of actual attendance.

31 3. The board shall elect from among its membership a chairman and a
32 vice chairman, who shall act as chairman in his or her absence. The board shall
33 meet at the call of the chairman. The chairman may call meetings at such times
34 as he or she deems advisable, and shall call a meeting when requested to do so
35 by three or more members of the board.

36 4. The state board of senior services shall advise the department of health
37 and senior services in the:

38 (1) Promulgation of rules and regulations by the department of health and
39 senior services;

40 (2) Formulation of the budget for the department of health and senior
41 services; and

42 (3) Planning for and operation of the department of health and senior
43 services.

 [660.067.] **192.2030.** As used in sections [660.067 to 660.070] **192.2030**
2 **to 192.2035**, the following terms shall mean:

3 (1) "Adult day care", a group program that emphasizes appropriate
4 services for persons eighteen years of age or older having Alzheimer's disease and
5 related disorders and that provides services for periods of less than twenty-four
6 hours but more than two hours per day in a place other than the adult's home;

7 (2) "Alzheimer's disease and related disorders", diseases resulting from
8 significant destruction of brain tissue and characterized by a decline of memory
9 and other intellectual functions. These diseases include but are not limited to
10 progressive, degenerative and dementing illnesses such as presenile and senile
11 dementias, Alzheimer's disease and other related disorders;

12 (3) "Appropriate services", services that emphasize surveillance, safety,
13 behavior management and other techniques used to assist persons having
14 Alzheimer's disease and related disorders;

15 (4) "Director", the director of the division of aging of the department of
16 [social] **health and senior** services;

17 (5) "Division", the division of aging of the department of [social] **health**
18 **and senior** services;

19 (6) "In-home companion", someone trained to provide appropriate services
20 to persons having Alzheimer's disease and related disorders and who provides
21 those services in the home;

22 (7) "Respite care", a program that provides temporary and short-term
23 residential care, sustenance, supervision and other appropriate services for
24 persons having Alzheimer's disease and related disorders who otherwise reside
25 in their own or in a family home.

[660.069.] **192.2033.** 1. To encourage development of appropriate
2 services for persons having Alzheimer's disease and related disorders, the
3 [division] **department** may make grants to public and private entities for pilot
4 projects from funds specifically appropriated for this purpose. Pilot projects shall
5 have the following goals:

6 (1) To prevent or postpone institutionalization of persons having
7 Alzheimer's disease and related disorders who currently live in their own home
8 or in a family home;

9 (2) To offer services that emphasize safety, surveillance and behavior
10 management rather than, or in addition to, medical treatment, homemaker, chore
11 or personal care services;

12 (3) To temporarily relieve family members or others who have assumed
13 direct care responsibilities by offering services that allow care givers to leave the
14 home. These services shall include but not be limited to adult day care, in-home
15 companions and respite care;

16 (4) To test the practical and economic feasibility of providing services in
17 settings and at levels designed for varying needs; and

18 (5) To develop program models that can be adapted and operated by other
19 public and private entities.

20 2. The director, in accordance with chapter 536, RSMo, shall promulgate
21 rules that establish procedures for grant application, review, selection, monitoring
22 and auditing of grants made [pursuant to sections 660.067 to 660.070] **under**
23 **this section and section 192.2035.**

24 3. The grants shall be limited to a duration of one year but may be
25 renewable for one additional year at the director's discretion and if funds are
26 appropriated for this purpose.

 [660.070.] **192.2035.** The commissioner of administration, in consultation
2 with the director of the [division of aging] **department**, shall promulgate rules
3 that establish procedures for contracting with grantees receiving funds under
4 [sections 660.067 to 660.070] **this section and section 192.2033.** No rule or
5 portion of a rule promulgated under the authority of sections 660.067 to 660.070
6 shall become effective unless it has been promulgated pursuant to the provisions
7 of section 536.024, RSMo.

 [660.099.] **192.2040.** 1. The general assembly may appropriate funds in
2 addition to the amount currently being provided per annum for nutrition services
3 for the elderly. Funds so designated to provide nutrition services for the elderly
4 shall be allocated to the [Missouri division of aging] **department** to be placed on
5 the formula basis and distributed to each area agency on aging throughout the
6 state of Missouri.

7 2. The general assembly may appropriate funds in addition to the amount
8 currently being provided per annum through the Missouri elderly and
9 handicapped transportation program. Funds so designated to provide
10 transportation for the elderly and developmentally disabled shall be allocated to
11 the [Missouri division of aging] **department** to be placed on the formula basis
12 and distributed to each area agency on aging throughout the state of Missouri.

13 3. The general assembly may appropriate funds in addition to the amount
14 currently being provided per annum for home-delivered meals for the
15 elderly. Such additional funds shall be allocated to the [Missouri division of
16 aging] **department** to be placed on the formula basis and distributed to each
17 area agency on aging throughout the state of Missouri.

 [660.250.] **192.2100.** As used in sections [660.250 to 660.321] **192.2100**
2 **to 192.2130 and sections 192.2175 to 192.2187,** the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm

- 4 including financial exploitation by any person, firm or corporation;
- 5 (2) "Court", the circuit court;
- 6 (3) "Department", the department of health and senior services;
- 7 (4) "Director", director of the department of health and senior services or
8 his or her designees;
- 9 (5) "Eligible adult", a person sixty years of age or older who is unable to
10 protect his or her own interests or adequately perform or obtain services which
11 are necessary to meet his or her essential human needs or an adult with a
12 disability, as defined in section [660.053] **192.2003**, between the ages of eighteen
13 and fifty-nine who is unable to protect his or her own interests or adequately
14 perform or obtain services which are necessary to meet his or her essential
15 human needs;
- 16 (6) "Home health agency", the same meaning as such term is defined in
17 section 197.400, RSMo;
- 18 (7) "Home health agency employee", a person employed by a home health
19 agency;
- 20 (8) "Home health patient", an eligible adult who is receiving services
21 through any home health agency;
- 22 (9) "In-home services client", an eligible adult who is receiving services in
23 his or her private residence through any in-home services provider agency;
- 24 (10) "In-home services employee", a person employed by an in-home
25 services provider agency;
- 26 (11) "In-home services provider agency", a business entity under contract
27 with the department or with a Medicaid participation agreement, which employs
28 persons to deliver any kind of services provided for eligible adults in their private
29 homes;
- 30 (12) "Least restrictive environment", a physical setting where protective
31 services for the eligible adult and accommodation is provided in a manner no
32 more restrictive of an individual's personal liberty and no more intrusive than
33 necessary to achieve care and treatment objectives;
- 34 (13) "Likelihood of serious physical harm", one or more of the following:
- 35 (a) A substantial risk that physical harm to an eligible adult will occur
36 because of his or her failure or inability to provide for his or her essential human
37 needs as evidenced by acts or behavior which has caused such harm or which
38 gives another person probable cause to believe that the eligible adult will sustain
39 such harm;

40 (b) A substantial risk that physical harm will be inflicted by an eligible
41 adult upon himself or herself, as evidenced by recent credible threats, acts, or
42 behavior which has caused such harm or which places another person in
43 reasonable fear that the eligible adult will sustain such harm;

44 (c) A substantial risk that physical harm will be inflicted by another upon
45 an eligible adult as evidenced by recent acts or behavior which has caused such
46 harm or which gives another person probable cause to believe the eligible adult
47 will sustain such harm;

48 (d) A substantial risk that further physical harm will occur to an eligible
49 adult who has suffered physical injury, neglect, sexual or emotional abuse, or
50 other maltreatment or wasting of his or her financial resources by another
51 person;

52 (14) "Neglect", the failure to provide services to an eligible adult by any
53 person, firm or corporation with a legal or contractual duty to do so, when such
54 failure presents either an imminent danger to the health, safety, or welfare of the
55 client or a substantial probability that death or serious physical harm would
56 result;

57 (15) "Protective services", services provided by the state or other
58 governmental or private organizations or individuals which are necessary for the
59 eligible adult to meet his or her essential human needs.

[660.255.] **192.2103.** 1. Any person having reasonable cause to suspect
2 that an eligible adult presents a likelihood of suffering serious physical harm and
3 is in need of protective services shall report such information to the department.

4 2. The report shall be made orally or in writing. It shall include, if
5 known:

6 (1) The name, age, and address of the eligible adult;

7 (2) The name and address of any person responsible for the eligible adult's
8 care;

9 (3) The nature and extent of the eligible adult's condition; and

10 (4) Other relevant information.

11 3. Reports regarding persons determined not to be eligible adults as
12 defined in section 660.250 shall be referred to the appropriate state or local
13 authorities.

14 4. The department shall maintain a statewide toll free phone number for
15 receipt of reports.

[660.260.] **192.2106.** 1. Upon receipt of a report, the department shall

2 make a prompt and thorough investigation to determine whether or not an
3 eligible adult is facing a likelihood of serious physical harm and is in need of
4 protective services. The department shall provide for any of the following:

5 (1) Identification of the eligible adult and determination that the eligible
6 adult is eligible for services;

7 (2) Evaluation and diagnosis of the needs of eligible adults;

8 (3) Provision of social casework, counseling or referral to the appropriate
9 local or state authority;

10 (4) Assistance in locating and receiving alternative living arrangements
11 as necessary;

12 (5) Assistance in locating and receiving necessary protective services; or

13 (6) The coordination and cooperation with other state agencies and public
14 and private agencies in exchange of information and the avoidance of duplication
15 of services.

[660.261.] **2.** Upon receipt of a report that an eligible adult between the
2 ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the
3 department shall:

4 (1) Investigate or refer the report to appropriate law enforcement or state
5 agencies; and

6 (2) Provide services or refer to local community or state agencies.

[660.263.] **192.2109.** 1. Reports made pursuant to sections [660.250 to
2 660.295] **192.2100 to 192.2130** shall be confidential and shall not be deemed a
3 public record and shall not be subject to the provisions of section 109.180, RSMo,
4 or chapter 610, RSMo.

5 2. Such reports shall be accessible for examination and copying only to the
6 following persons or offices, or to their designees:

7 (1) The department or any person or agency designated by the
8 department;

9 (2) The attorney general;

10 (3) The department of mental health for persons referred to that
11 department;

12 (4) Any appropriate law enforcement agency; and

13 (5) The eligible adult or his **or her** legal guardian.

14 3. The name of the reporter shall not be disclosed unless:

15 (1) Such reporter specifically authorizes disclosure of his **or her** name;

16 and

17 (2) The department determines that disclosure of the name of the reporter
18 is necessary in order to prevent further harm to an eligible adult.

19 4. Any person who violates the provisions of this section, or who permits
20 or encourages the unauthorized dissemination of information contained in the
21 central registry and in reports and records made pursuant to sections [660.250
22 to 660.295] **192.2100 to 192.2130**, shall be guilty of a class A misdemeanor.

23 5. The department shall maintain a central registry capable of receiving
24 and maintaining reports received in a manner that facilitates rapid access and
25 recall of the information reported, and of subsequent investigations and other
26 relevant information. The department shall electronically record any telephone
27 report of suspected abuse and neglect received by the department and such
28 recorded reports shall be retained by the department for a period of one year after
29 recording.

30 6. Although reports to the central registry may be made anonymously, the
31 department shall in all cases, after obtaining relevant information regarding the
32 alleged abuse or neglect, attempt to obtain the name and address of any person
33 making a report.

 [660.265.] **192.2112.** When an eligible adult gives consent to receive
2 protective services, the department shall assist the adult in locating and
3 arranging for necessary services in the least restrictive environment reasonably
4 available.

 [660.270.] **192.2115.** When the department receives a report that there
2 has been abuse or neglect, or that there otherwise is a likelihood of serious
3 physical harm to an eligible adult and that he or she is in need of protective
4 services and the department is unable to conduct an investigation because access
5 to the eligible adult is barred by any person, the director may petition the
6 appropriate court for a warrant or other order to enter upon the described
7 premises and investigate the report or to produce the information. The
8 application for the warrant or order shall identify the eligible adult and the facts
9 and circumstances which require the issuance of the warrant or order. The
10 director may also seek an order to enjoin the person from barring access to an
11 eligible adult or from interfering with the investigation. If the court finds that,
12 based on the report and relevant circumstances and facts, probable cause exists
13 showing that the eligible adult faces abuse or neglect, or otherwise faces a
14 likelihood of serious physical harm and is in need of protective services and the
15 director has been prevented by another person from investigating the report, the

16 court may issue the warrant or enjoin the interference with the investigation or
17 both.

[660.275.] **192.2118.** If an eligible adult gives consent to receive
2 protective services and any other person interferes with or prevents the delivery
3 of such services, the director may petition the appropriate court for an order to
4 enjoin the interference with the delivery of the services. The petition shall allege
5 the consent of the eligible adult and shall allege specific facts sufficient to show
6 that the eligible adult faces a likelihood of serious physical harm and is in need
7 of the protective services and that delivery is barred by the person named in the
8 petition. If the court finds upon a preponderance of evidence that the allegations
9 in the petition are true, the court may issue an order enjoining the interference
10 with the delivery of the protective services and may establish such conditions and
11 restrictions on the delivery as the court deems necessary and proper under the
12 circumstances.

[660.280.] **192.2121.** When an eligible adult facing the likelihood of
2 serious physical harm and in need of protective services is unable to give consent
3 because of incapacity or legal disability and the guardian of the eligible adult
4 refuses to provide the necessary services or allow the provision of such services,
5 the director shall inform the court having supervisory jurisdiction over the
6 guardian of the facts showing that the eligible adult faces the likelihood of serious
7 physical harm and is in need of protective services and that the guardian refuses
8 to provide the necessary services or allow the provision of such services under the
9 provisions of sections [660.250 to 660.295] **192.2100 to 192.2130.** Upon receipt
10 of such information, the court may take such action as it deems necessary and
11 proper to insure that the eligible adult is able to meet his essential human needs.

[660.285.] **192.2124.** 1. If the director determines after an investigation
2 that an eligible adult is unable to give consent to receive protective services and
3 presents a likelihood of serious physical harm, the director may initiate
4 proceedings pursuant to chapter 202, RSMo, or chapter 475, RSMo, if appropriate.

5 2. In order to expedite adult guardianship and conservatorship cases, the
6 department may retain, within existing funding sources of the department, legal
7 counsel on a case-by-case basis.

[660.290.] **192.2127.** 1. When a peace officer has probable cause to
2 believe that an eligible adult will suffer an imminent likelihood of serious
3 physical harm if not immediately placed in a medical facility for care and
4 treatment, that the adult is incapable of giving consent, and that it is not possible

5 to follow the procedures in section [660.285] **192.2124**, the officer may transport,
6 or arrange transportation for, the eligible adult to an appropriate medical facility
7 which may admit the eligible adult and shall notify the next of kin, if known, and
8 the director.

9 2. Where access to the eligible adult is barred and a substantial likelihood
10 exists of serious physical harm resulting to the eligible adult if he is not
11 immediately afforded protective services, the peace officer may apply to the
12 appropriate court for a warrant to enter upon the described premises and remove
13 the eligible adult. The application for the warrant shall identify the eligible adult
14 and the circumstances and facts which require the issuance of the warrant.

15 3. If immediately upon admission to a medical facility, a person who is
16 legally authorized to give consent for the provision of medical treatment for the
17 eligible adult, has not given or refused to give such consent, and it is the opinion
18 of the medical staff of the facility that treatment is necessary to prevent serious
19 physical harm, the director or the head of the medical facility shall file a petition
20 in the appropriate court for an order authorizing specific medical treatment. The
21 court shall hold a hearing and issue its decision forthwith. Notwithstanding the
22 above, if a licensed physician designated by the facility for such purpose examines
23 the eligible adult and determines that the treatment is immediately or
24 imminently necessary and any delay occasioned by the hearing provided in this
25 subsection would jeopardize the life of the person affected, the medical facility
26 may treat the eligible adult prior to such court hearing.

27 4. The court shall conduct a hearing pursuant to chapter 475, RSMo,
28 forthwith and, if the court finds the eligible adult incapacitated, it shall appoint
29 a guardian ad litem for the person of the eligible adult to determine the nature
30 and extent of the medical treatment necessary for the benefit of the eligible adult
31 and to supervise the rendition of such treatment. The guardian ad litem shall
32 promptly report the completion of treatment to the court, who shall thereupon
33 conduct a restoration hearing or a hearing to appoint a permanent guardian.

34 5. The medical care under this section may not be rendered in a mental
35 health facility unless authorized pursuant to the civil commitment procedures in
36 chapter 632, RSMo.

37 6. Nothing contained in this section or in any other section of sections
38 [660.250 to 660.295] **192.2100 to 192.2130** shall be construed as requiring
39 physician or medical care or hospitalization of any person who, because of
40 religious faith or conviction, relies on spiritual means or prayer to cure or prevent

41 disease or suffering nor shall any provision of sections [660.250 to 660.295]
42 **192.2100 to 192.2130** be construed so as to designate any person as an eligible
43 adult who presents a likelihood of suffering serious physical harm and is in need
44 of protective services solely because such person, because of religious faith or
45 conviction, relies on spiritual means or prayer to cure or prevent disease or
46 suffering.

[660.295.] **192.2130.** If an eligible adult does not consent to the receipt
2 of reasonable and necessary protective services, or if an eligible adult withdraws
3 previously given consent, the protective services shall not be provided or
4 continued; except that, if the director has reasonable cause to believe that the
5 eligible adult lacks the capacity to consent, the director may seek a court order
6 pursuant to the provisions of section [660.285] **192.2124.**

[198.070.] **192.2150.** 1. [When] **As used in sections 192.2150 to**
2 **192.2187, unless the context clearly indicates otherwise, the following**
3 **terms mean:**

4 (1) **"Consumer", a consumer of personal care assistance services**
5 **as defined in section 208.900, RSMo;**

6 (2) **"Patient", any patient of any entity licensed or certified under**
7 **chapter 197 or 198, RSMo, or a client of an in-home services provider**
8 **or adult day care provider;**

9 (3) **"Provider", any entity licensed or certified under chapter 197**
10 **or 198, RSMo, an in-home services provider agency, adult day care**
11 **provider, or personal care assistance services vendor as defined in**
12 **section 208.900, RSMo;**

13 (4) **"Resident", any resident of any entity licensed or certified**
14 **under chapter 197 or 198, RSMo.**

15 2. Any adult day care worker; chiropractor; Christian Science practitioner;
16 coroner; dentist; embalmer; employee of the departments of social services,
17 mental health, or health and senior services; employee of a local area agency on
18 aging or an organized area agency on aging program; funeral director; home
19 health agency or home health agency employee; hospital and clinic personnel
20 engaged in examination, care, or treatment of persons; in-home services owner,
21 provider, operator, or employee; law enforcement officer; long-term care facility
22 administrator or employee; medical examiner; medical resident or intern; mental
23 health professional; minister; nurse; nurse practitioner; optometrist; other health
24 practitioner; peace officer; pharmacist; physical therapist; physician; physician's

25 assistant; podiatrist; probation or parole officer; psychologist; social worker;
26 **personal care assistance services vendor employee or attendant;** or other
27 person **charged** with the care of a person sixty years of age or older or an eligible
28 adult **as defined in section 192.2100 who** has reasonable cause to believe that
29 a [resident of a facility] **patient, resident, or consumer** has been abused or
30 neglected, [he or she] **that misappropriation of property or moneys**
31 **belonging to a patient, resident, or consumer has occurred, or that the**
32 **falsification of any documents verifying service delivery of in-home**
33 **services or consumer-directed services,** shall immediately report or cause
34 a report to be made to the department.

35 [2.] 3. In addition to those persons required to report under
36 subsection 2 of this section, any other person having reasonable cause
37 to believe that a patient, resident, or consumer has been abused or
38 neglected, that misappropriation of property of moneys belonging to a
39 patient, resident, or consumer has occurred, or that the falsification of
40 any documents verifying service delivery of in-home services or
41 consumer-directed services may report such information to the
42 department.

43 4. If a report is made by the patient's or resident's physician, the
44 department shall provide information regarding the progress of the
45 investigation to the physician upon request.

46 5. The report shall contain:

47 (1) The name and address of the [facility, the name of the resident,]
48 **provider and the patient, resident, or consumer;**

49 (2) Information regarding the nature of the abuse or neglect,
50 **misappropriation, or falsification of documents verifying service**
51 **delivery;**

52 (3) The name of the complainant[,]; and

53 (4) Any other information which might be helpful in an investigation.

54 [3. Any person required in subsection 1 of this section to report or cause
55 a report to be made to the department who knowingly fails to make a report
56 within a reasonable time after the act of abuse or neglect as required in this
57 subsection is guilty of a class A misdemeanor.

58 4. In addition to the penalties imposed by this section, any administrator
59 who knowingly conceals any act of abuse or neglect resulting in death or serious
60 physical injury, as defined in section 565.002, RSMo, is guilty of a class D felony.

61 5. In addition to those persons required to report pursuant to subsection
62 1 of this section, any other person having reasonable cause to believe that a
63 resident has been abused or neglected may report such information to the
64 department.]

65 6. Upon receipt of a report **that indicates an imminent danger to the**
66 **health, safety, or welfare of a patient, resident, or consumer or**
67 **substantial probability that death or serious physical injury will result,**
68 the department shall initiate an investigation within twenty-four hours
69 [and]. **The department shall initiate all other investigations as soon as**
70 **practicable. If the patient, resident, or consumer has been appointed**
71 **a guardian or conservator, or both, under chapter 475, RSMo, or if the**
72 **patient, resident, or consumer has been certified to be incapacitated in**
73 **accordance with sections 404.800 to 404.872, RSMo, the department, as**
74 soon as possible during the course of the investigation, shall notify the **patient's,**
75 resident's [next of kin or responsible party], **or consumer's legal**
76 **representative (guardian, conservator, or agent under a durable power**
77 **of attorney for health care) of the report [and], the investigation, and [further**
78 notify them] whether the report was substantiated or unsubstantiated unless
79 such person is the alleged perpetrator [of the abuse or neglect]. **In the case of**
80 **investigations involving facilities licensed under chapter 198, RSMo,**
81 **the department may notify family members or guardians of the results**
82 **of investigations in accordance with section 198.532, RSMo.** As provided
83 in section 565.186, RSMo, substantiated reports of elder abuse shall be promptly
84 reported by the department to the appropriate law enforcement agency and
85 prosecutor.

86 7. If the investigation indicates possible abuse or neglect [of a resident],
87 **misappropriation of property or moneys, or falsification of documents**
88 **verifying service delivery of in-home services or consumer-directed**
89 **services,** the investigator shall refer the complaint together with the
90 investigator's report to the department director or the director's designee for
91 appropriate action. **When information gained from an investigation**
92 **indicates a crime has occurred, the department shall report such**
93 **information to appropriate law enforcement authorities.**

94 8. If, during the investigation or at its completion, the department has
95 reasonable cause to believe that immediate [removal] **action** is necessary to
96 protect the **patient, resident, or consumer** from abuse or neglect, **or**

97 **misappropriation of property or moneys**, the department or the local
98 prosecuting attorney may, or the attorney general upon request of the department
99 shall, file a petition for temporary care and protection of the **patient**, resident,
100 **or consumer** in a circuit court of competent jurisdiction. The circuit court in
101 which the petition is filed shall have equitable jurisdiction to issue an ex parte
102 order granting the department authority for the temporary care and protection
103 of the **patient**, resident, **or consumer**, for a period not to exceed thirty days.

104 [8.] **9. Reports shall be confidential, [as provided pursuant to section**
105 **660.320 , RSMo] shall not be deemed a public record, and shall not be**
106 **subject to the provisions of section 109.180, RSMo, or chapter 610,**
107 **RSMo. The name of the complainant or any person mentioned in the**
108 **reports shall not be disclosed unless:**

109 (1) **The complainant, patient, resident, or consumer mentioned,**
110 **or the patient's, resident's, or consumer's legal representative agrees**
111 **to disclosure of his or her name;**

112 (2) **The department determines that disclosure is necessary to**
113 **prevent further abuse or neglect, misappropriation of property or**
114 **moneys, or falsification of any documents verifying service delivery of**
115 **in-home services or consumer-directed services;**

116 (3) **Release of a name is required for conformance with a lawful**
117 **subpoena;**

118 (4) **Release of a name is required in connection with a review by**
119 **the administrative hearing commission in accordance with section**
120 **198.039, RSMo;**

121 (5) **The department determines that release of a name is**
122 **appropriate when forwarding a report of findings of an investigation**
123 **to a licensing authority; or**

124 (6) **Release of a name is requested by the department of social**
125 **services for the purpose of licensure under chapter 210, RSMo.**

126 **10. Within five working days after a report required to be made**
127 **under this section is received, the person making the report shall be**
128 **notified of its receipt and the initiation of the investigation.**

129 [9.] **11. Anyone, except any person who has abused or neglected a**
130 **patient, resident [in a facility], or consumer, or who has benefitted from**
131 **the misappropriation of property or moneys of a patient, resident, or**
132 **consumer, or who has falsified documents verifying service delivery of**
133 **in-home services or consumer-directed services, who makes a report**

134 pursuant to this section or who testifies in any administrative or judicial
135 proceeding arising from the report shall be immune from any civil or criminal
136 liability for making such a report or for testifying except for liability for perjury,
137 unless such person acted negligently, recklessly, in bad faith or with malicious
138 purpose. It is a crime pursuant to section 565.186 and 565.188, RSMo, for any
139 person to purposely file a false report of elder abuse or neglect.

140 [10. Within five working days after a report required to be made pursuant
141 to this section is received, the person making the report shall be notified in
142 writing of its receipt and of the initiation of the investigation.

143 11. No person who directs or exercises any authority in a facility shall
144 evict, harass, dismiss or retaliate against a resident or employee because such
145 resident or employee or any member of such resident's or employee's family has
146 made a report of any violation or suspected violation of laws, ordinances or
147 regulations applying to the facility which the resident, the resident's family or an
148 employee has reasonable cause to believe has been committed or has
149 occurred. Through the existing department information and referral telephone
150 contact line, residents, their families and employees of a facility shall be able to
151 obtain information about their rights, protections and options in cases of eviction,
152 harassment, dismissal or retaliation due to a report being made pursuant to this
153 section.

154 12. Any person who abuses or neglects a resident of a facility is subject
155 to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo.

156 13.] 12. The department shall maintain the employee disqualification list
157 and place on the employee disqualification list the names of any persons who are
158 or have been employed [in any facility] **by any provider or consumer** and who
159 have been finally determined by the department pursuant to section [660.315]
160 **192.2175**, RSMo[.]:

161 (1) To have **purposely**, knowingly or recklessly abused or neglected a
162 [resident] **patient, resident, or consumer. For purposes of this section,**
163 **"abuse" and "neglect" shall have the same meanings as such terms are**
164 **defined in section 192.2100.** For purposes of this section only, **"purposely"**,
165 "knowingly" and "recklessly" shall have the meanings [that are ascribed to them
166 in this section. A person acts "knowingly" with respect to the person's conduct
167 when a reasonable person should be aware of the result caused by his or her
168 conduct. A person acts "recklessly" when the person consciously disregards a
169 substantial and unjustifiable risk that the person's conduct will result in serious

170 physical injury and such disregard constitutes a gross deviation from the
171 standard of care that a reasonable person would exercise in the situation] as
172 **such terms are defined in chapter 562, RSMo;**

173 **(2) To have falsified documents verifying service delivery to a**
174 **patient, resident, or consumer;**

175 **(3) To have misappropriated property or moneys belonging to a**
176 **patient, resident, or consumer. For the purposes of sections 192.2150**
177 **to 192.2175, the term "misappropriation" means the dishonest**
178 **conversion of property or moneys of a patient for one's own use by a**
179 **provider or an employee of a provider.**

180 **13. No person who directs or exercises any authority on behalf**
181 **of a provider and no personal care attendant, as defined in section**
182 **208.900, RSMo, shall evict, harass, dismiss, or retaliate against a**
183 **patient, resident, consumer, or employee because such patient,**
184 **resident, consumer, or employee or any member of such patient's,**
185 **resident's, consumer's, or employee's family has made a report of any**
186 **violation or suspected violation of laws, standards, or regulations**
187 **applying to the provider or attendant which the complainant has**
188 **reasonable cause to believe has been committed or has**
189 **occurred. Through existing department information and referral**
190 **telephone contact line, patients, residents, consumers, their families,**
191 **and employees of a provider shall be able to obtain information**
192 **regarding their rights, protections, and options in cases of eviction,**
193 **harassment, dismissal, or retaliation due to a report being made under**
194 **this section.**

195 **14. The timely self-reporting of incidents to the central registry by a**
196 **[facility] provider, shall continue to be investigated in accordance with**
197 **department policy, and shall not be counted or reported by the department as a**
198 **hot-line call but rather a self-reported incident. If the self-reported incident**
199 **results in a regulatory violation, such incident shall be reported as a**
200 **substantiated report.**

201 **15. Any potential recipient or participant of Medicaid-funded**
202 **home and community based care shall be screened to ascertain if they**
203 **are included on the Missouri sexual offender registry maintained by**
204 **Missouri state highway patrol. If any potential recipient or participant**
205 **of Medicaid-funded home and community based care is included on the**
206 **Missouri sexual offender registry, the department shall notify the**

207 **provider of such at the time the referral is made.**

192.2153. 1. Any person required to report or cause a report to
2 be made to the department under subsection 2 of section 192.2150 who
3 fails to make such a report or cause such a report to be made within
4 twenty-four hours after the later of the act or the discovery of the act
5 by such person of abuse or neglect or misappropriation of property or
6 moneys is guilty of a class A misdemeanor.

7 2. In addition to any other penalties imposed by this section, any
8 provider or employer of a provider who knowingly conceals any act of
9 abuse or neglect that results in death or serious physical injury, as
10 defined in section 565.002, RSMo, is guilty of a class D felony.

11 3. If a provider willfully and knowingly fails to report abuse by
12 an employee of the provider and such employee is later found guilty or
13 pleads guilty to a violation of section 565.180, 565.182, or 565.184, RSMo,
14 the provider may be subject to an administrative penalty of one
15 thousand dollars per violation to be collected by the department. Any
16 moneys collected shall be transferred to the state school moneys fund
17 as established in section 166.051, RSMo, and distributed to the public
18 schools of this state in the manner provided in section 163.031,
19 RSMo. Any provider that has an administrative penalty imposed by the
20 department may seek an administrative review of the department's
21 action under chapter 621, RSMo. Any decision of the administrative
22 hearing commission may be appealed to the circuit court in the county
23 where the violation occurred for judicial review as a contested case
24 under chapter 536, RSMo.

[660.315.] 192.2175. 1. After an investigation and a determination has
2 been made to place a person's name on the employee disqualification list, that
3 person shall be notified in writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the
5 allegation and that an investigation has been conducted which tends to
6 substantiate the allegation;

7 (2) The person's name will be included in the employee disqualification
8 list of the department;

9 (3) The consequences of being so listed including the length of time to be
10 listed; and

11 (4) The person's rights and the procedure to challenge the allegation.

12 2. Notice by mail to the last known address, as provided by the

13 **person to the person's employer at the time of the allegation, shall**
14 **satisfy the requirements of this section. If the person has provided the**
15 **department with a more recent address, notice shall be sent to the more**
16 **recent address. Notice shall be complete upon such mailing.** If no reply
17 has been received within thirty days of mailing the notice, the department may
18 include the name of such person on its list. The length of time the person's name
19 shall appear on the employee disqualification list shall be determined by the
20 director or the director's designee, based upon the criteria contained in subsection
21 9 of this section.

22 3. If the person so notified wishes to challenge the allegation, such person
23 may file an application for a hearing with the department. The department shall
24 grant the application within thirty days after receipt by the department and set
25 the matter for hearing[, or the department shall notify the applicant that, after
26 review, the allegation has been held to be unfounded and the applicant's name
27 will not be listed].

28 4. If a person's name is included on the employee disqualification list
29 without notice **in accordance with subsections 1 and 2 of this section** by
30 the department, such person may file a request with the department for removal
31 of the name or for a hearing. Within thirty days after receipt of the request, the
32 department shall either remove the name from the list or grant a hearing and set
33 a date therefor.

34 5. Any hearing shall be conducted [in the county of the person's residence]
35 by the director of the department or the director's designee **in Cole County or**
36 **in the county of the person's residence, or by telephone, in the**
37 **discretion of the director or the director's designee.** The provisions of
38 chapter 536, RSMo, for a contested case except those provisions or amendments
39 which are in conflict with this section, shall apply to and govern the proceedings
40 contained in this section and the rights and duties of the parties involved. The
41 person appealing such an action shall be entitled to present evidence, pursuant
42 to the provisions of chapter 536, RSMo, relevant to the allegations.

43 6. Upon the record made at the hearing, the director of the department
44 or the director's designee shall determine all questions presented and shall
45 determine whether the person shall be listed on the employee disqualification
46 list. The director of the department or the director's designee shall clearly state
47 the reasons for his or her decision and shall include a statement of findings of
48 fact and conclusions of law pertinent to the questions in issue.

49 7. A person aggrieved by the decision following the hearing shall be
50 informed of his or her right to seek judicial review as provided under chapter 536,
51 RSMo. If the person fails to appeal the director's findings, those findings shall
52 constitute a final determination that the person shall be placed on the employee
53 disqualification list.

54 8. A decision by the director shall be inadmissible in any civil action
55 brought against a [facility or the in-home services provider agency] **provider or**
56 **personal care attendant** and arising out of the facts and circumstances which
57 brought about the employment disqualification proceeding, unless the civil action
58 is brought against the [facility or the in-home services provider agency] **provider**
59 **or personal care attendant** by the department of health and senior services
60 or one of its divisions.

61 9. The length of time the person's name shall appear on the employee
62 disqualification list shall be determined by the director of the department of
63 health and senior services or the director's designee, based upon the following:

64 (1) Whether the person acted **purposely**, recklessly or knowingly, as
65 defined in chapter 562, RSMo;

66 (2) The degree of the physical, sexual, or emotional injury or harm; or the
67 degree of the imminent danger to the health, safety or welfare of a [resident or
68 in-home services client] **the alleged victim**;

69 (3) The degree of misappropriation of the property or funds, or
70 falsification of any documents for service delivery of [an in-home services client]
71 **a patient, resident, or consumer**;

72 (4) Whether the person has previously been listed on the employee
73 disqualification list;

74 (5) Any mitigating circumstances;

75 (6) Any aggravating circumstances; and

76 (7) Whether alternative sanctions resulting in conditions of continued
77 employment are appropriate in lieu of placing a person's name on the employee
78 disqualification list. Such conditions of employment may include, but are not
79 limited to, additional training and employee counseling. Conditional employment
80 shall terminate upon the expiration of the designated length of time and the
81 person's submitting documentation which fulfills the department of health and
82 senior services' requirements.

83 10. The removal of any person's name from the list under this section
84 shall not prevent the director from keeping records of all acts finally determined

85 to have occurred under this section.

86 11. The department shall [provide] **make available** the list maintained
87 pursuant to this section to other state departments upon request and to any
88 person, corporation or association who:

89 (1) Is licensed as an operator under chapter 198, RSMo;

90 (2) Provides in-home services under contract with the department;

91 (3) Employs [nurses and nursing assistants] **health care staff** for
92 temporary or intermittent placement [in health care facilities] **with providers;**

93 (4) Is approved by the department to issue certificates for nursing
94 assistants training; [or]

95 (5) Is an entity licensed under chapter 197, RSMo;

96 (6) **Is a personal care assistance services vendor agency, as**
97 **defined in section 208.900, RSMo;**

98 (7) **Is an adult day care provider licensed under sections 192.2200**
99 **to 192.2227;**

100 (8) **Is a recognized school of nursing, medicine, or other health**
101 **profession that receives the list for the purpose of checking its students**
102 **who participate in clinical rotations with entities described in**
103 **subdivisions (1), (2), or (5) of this subsection; or**

104 (9) **Is a consumer reporting agency regulated by the Fair Credit**
105 **Reporting Act that conducts employee background checks on behalf of**
106 **entities listed in subdivisions (1) to (7) of this subsection.**

107 The department shall inform any person listed above who inquires of the
108 department whether or not a particular name is on the list. **No person,**
109 **corporation, or association who is entitled to access the employee**
110 **disqualification list may disclose the information to any person,**
111 **corporation, or association who is not entitled to access the list. Any**
112 **person, corporation, or association who is entitled to access the**
113 **employee disqualification list who discloses the information to any**
114 **person, corporation, or association who is not entitled to access the list**
115 **shall be guilty of an infraction.** The department may require that the
116 request be made in writing.

117 12. **The department shall, upon request, provide to the division**
118 **of employment security within the department of labor and industrial**
119 **relations copies of the investigative reports related to an employee**
120 **being placed on the employee disqualification list.**

121 **13.** No person, corporation or association who received the employee
122 disqualification list under **subdivisions (1) to (7) of** subsection 11 of this
123 section shall knowingly employ any person who is on the employee
124 disqualification list. **No person who is listed on the employee**
125 **disqualification list shall be paid from public moneys as a personal care**
126 **assistance services attendant.** Any person, corporation or association who
127 received the employee disqualification list under **subdivisions (1) to (7) of**
128 subsection 11 of this section, or any **consumer or** person responsible for
129 providing health care service, who declines to employ or terminates a person
130 whose name is listed in this section shall be immune from suit by that person or
131 anyone else acting for or in behalf of that person for the failure to employ or for
132 the termination of the person whose name is listed on the employee
133 disqualification list.

134 **[13.] 14.** Any employer who is required to discharge an employee because
135 the employee was placed on **[a] any** disqualification list maintained by the
136 department of health and senior services **[after the date of hire], including the**
137 **employee disqualification list maintained under section 192.2175 or any**
138 **of the background check lists in the family care safety registry under**
139 **sections 210.900 to 210.936, RSMo,** shall not be charged for unemployment
140 insurance benefits based on wages paid to the employee for work prior to the date
141 of discharge, pursuant to section 288.100, RSMo. **Any person who is**
142 **employed in a position for which employment is prohibited while such**
143 **person is listed on the employee disqualification list shall have his or**
144 **her placement on the employee disqualification list extended one year.**

145 **[14.] 15.** Any person who has been listed on the employee disqualification
146 list may request that the director remove his or her name from the employee
147 disqualification list. The request shall be written and may not be made more
148 than once every twelve months. The request will be granted by the director upon
149 a clear showing, by written submission only, that the person will not commit
150 additional acts of abuse, neglect, misappropriation of the property or funds, or the
151 falsification of any documents **[of] verifying** service delivery to **[an in-home**
152 **services client] a patient, resident, or consumer.** The director may make
153 conditional the removal of a person's name from the list on any terms that the
154 director deems appropriate, and failure to comply with such terms may result in
155 the person's name being relisted. The director's determination of whether to
156 remove the person's name from the list is not subject to appeal.

[660.317.] **192.2178.** 1. For the purposes of this section, the term

2 "provider" means any person, corporation or association who:

3 (1) Is licensed as an operator pursuant to chapter 198, RSMo;

4 (2) Provides in-home services under contract with the department;

5 (3) Employs **[nurses or nursing assistants] health care staff** for
6 temporary or intermittent placement in health care facilities;

7 (4) Is an entity licensed pursuant to chapter 197, RSMo;

8 (5) Is a public or private facility, day program, residential facility or
9 specialized service operated, funded or licensed by the department of mental
10 health; [or]

11 (6) Is a licensed adult day care provider;

12 **(7) Is a personal care assistance services vendor agency, as**
13 **defined in section 208.900, RSMo.**

14 2. For the purpose of this section "patient or resident" has the same
15 meaning as such term is defined in section 43.540, RSMo; **and "consumer" has**
16 **the same meaning as such term is defined in section 208.900, RSMo.**

17 3. Prior to allowing any person who has been hired as a full-time,
18 part-time or temporary position to have contact with any patient [or], resident,
19 **or consumer**, the provider shall, or in the case of temporary employees hired
20 through or contracted for an employment agency, the employment agency shall
21 prior to sending a temporary employee to a provider:

22 (1) Request a criminal background check as provided in section 43.540,
23 RSMo. Completion of an inquiry to the highway patrol for criminal records that
24 are available for disclosure to a provider for the purpose of conducting an
25 employee criminal records background check shall be deemed to fulfill the
26 provider's duty to conduct employee criminal background checks pursuant to this
27 section; except that, completing the inquiries pursuant to this subsection shall not
28 be construed to exempt a provider from further inquiry pursuant to common law
29 requirements governing due diligence. If an applicant has not resided in this
30 state for five consecutive years prior to the date of his or her application for
31 employment, the provider shall request a nationwide check for the purpose of
32 determining if the applicant has a prior criminal history in other states. The
33 fingerprint cards and any required fees shall be sent to the highway patrol's
34 criminal records division. The first set of fingerprints shall be used for searching
35 the state repository of criminal history information. If no identification is made,
36 the second set of fingerprints shall be forwarded to the Federal Bureau of

37 Investigation, Identification Division, for the searching of the federal criminal
38 history files. The patrol shall notify the submitting state agency of any criminal
39 history information or lack of criminal history information discovered on the
40 individual. The provisions relating to applicants for employment who have not
41 resided in this state for five consecutive years shall apply only to persons who
42 have no employment history with a licensed Missouri facility during that
43 five-year period. Notwithstanding the provisions of section 610.120, RSMo, all
44 records related to any criminal history information discovered shall be accessible
45 and available to the provider making the record request; and

46 (2) Make an inquiry to the department of health and senior services
47 whether the person is listed on the employee disqualification list as provided in
48 section [660.315] **192.2175**;

49 **(3) Request of the person a physical address where the person**
50 **may be located in addition to any other address provided by the person**
51 **such as a post office box address.**

52 **For any elder-care worker listed in the family care safety registry or**
53 **who has submitted the registration form required by sections 210.900**
54 **to 210.936, RSMo, a provider may access the family care safety registry**
55 **in lieu of the requirements established under section 192.2175 or**
56 **subsections 3 to 5 of section 192.2178.**

57 4. When the provider requests a criminal background check pursuant to
58 section 43.540, RSMo, the requesting entity may require that the applicant
59 reimburse the provider for the cost of such record check. When a provider
60 requests a nationwide criminal background check pursuant to subdivision (1) of
61 subsection 3 of this section, the total cost to the provider of any background check
62 required pursuant to this section shall not exceed five dollars which shall be paid
63 to the state. State funding and the obligation of a provider to obtain a nationwide
64 criminal background check shall be subject to the availability of appropriations.

65 5. An applicant for a position to have contact with patients or residents
66 of a provider shall:

67 (1) Sign a consent form as required by section 43.540, RSMo, so the
68 provider may request a criminal records review;

69 (2) Disclose the applicant's criminal history. For the purposes of this
70 subdivision "criminal history" includes any conviction or a plea of guilty to a
71 misdemeanor or felony charge and shall include any suspended imposition of
72 sentence, any suspended execution of sentence or any period of probation or

73 parole; and

74 (3) Disclose if the applicant is listed on the employee disqualification list
75 as provided in section [660.315] **192.2175**.

76 6. An applicant who knowingly fails to disclose his or her criminal history
77 as required in subsection 5 of this section is guilty of a class A misdemeanor. A
78 provider is guilty of a class A misdemeanor if the provider knowingly hires or
79 retains a person to have contact with patients or residents and the person has
80 been convicted of, pled guilty to or nolo contendere in this state or any other state
81 or has been found guilty of a crime, which if committed in Missouri would be a
82 class A or B felony violation of chapter **195**, 565, 566 or 569, RSMo, **a violation**
83 **of section 570.090, RSMo, or any felony violation or three or more**
84 **misdemeanor violations of section 570.030, RSMo, or any violation of**
85 subsection [3] 1 of section [198.070, RSMo,] **192.2153** or section 568.020,
86 RSMo. **For any persons hired on or after August 28, 2006, a provider**
87 **shall not hire any person with a disqualifying criminal history unless**
88 **such person has received a good cause waiver of the disqualifying**
89 **criminal history. For any persons employed as of August 28, 2006, a**
90 **provider shall not retain any person with a disqualifying criminal**
91 **history after January 1, 2007, unless such person has submitted a**
92 **completed good cause waiver application prior to January 1, 2007. If**
93 **the good cause waiver is denied, the provider shall not continue to**
94 **retain such person after the provider is notified of the denial of the**
95 **good cause waiver.**

96 7. Any in-home services provider agency or home health agency [shall be]
97 **or hospice** is guilty of a class A misdemeanor if such agency **or hospice**
98 knowingly [employs] **hires or retains** a person to provide in-home services,
99 **hospice services**, or home health services to any in-home services client,
100 **hospice patient**, or home health patient and such person either refuses to
101 register with the family care safety registry or [is listed] **has a finding report**
102 on any of the background check lists in the family care safety registry pursuant
103 to sections 210.900 to 210.937, RSMo.

104 8. The highway patrol shall examine whether protocols can be developed
105 to allow a provider to request a statewide fingerprint criminal records review
106 check through local law enforcement agencies.

107 9. A provider may use a private investigatory agency rather than the
108 highway patrol to do a criminal history records review check, and alternatively,

109 the applicant pays the private investigatory agency such fees as the provider and
110 such agency shall agree.

111 10. Except for the hiring restriction based on the department of health
112 and senior services employee disqualification list established pursuant to section
113 [660.315] **192.2175**, the department of health and senior services shall
114 promulgate rules and regulations to waive the hiring restrictions pursuant to this
115 section for good cause. For purposes of this section, "good cause" means the
116 department has made a determination by examining the employee's prior work
117 history and other relevant factors that [such employee does not present a risk to
118 the health or safety of residents] **the hiring restriction contained in**
119 **subsections 6 and 7 of this section is removed and the hiring decision**
120 **becomes the responsibility of the provider.**

[660.300.] **192.2181.** 1. [When any adult day care worker; chiropractor;
2 Christian Science practitioner; coroner; dentist; embalmer; employee of the
3 departments of social services, mental health, or health and senior services;
4 employee of a local area agency on aging or an organized area agency on aging
5 program; funeral director; home health agency or home health agency employee;
6 hospital and clinic personnel engaged in examination, care, or treatment of
7 persons; in-home services owner, provider, operator, or employee; law enforcement
8 officer; long-term care facility administrator or employee; medical examiner;
9 medical resident or intern; mental health professional; minister; nurse; nurse
10 practitioner; optometrist; other health practitioner; peace officer; pharmacist;
11 physical therapist; physician; physician's assistant; podiatrist; probation or parole
12 officer; psychologist; or social worker has reasonable cause to believe that an
13 in-home services client has been abused or neglected, as a result of in-home
14 services, he or she shall immediately report or cause a report to be made to the
15 department. If the report is made by a physician of the in-home services client,
16 the department shall maintain contact with the physician regarding the progress
17 of the investigation.

18 2.] When a report of deteriorating physical condition resulting in possible
19 abuse or neglect of an in-home services client is received by the department, the
20 client's case manager and the department nurse shall be notified. The client's
21 case manager shall investigate and immediately report the results of the
22 investigation to the department nurse. The department may authorize the
23 in-home services provider nurse to assist the case manager with the investigation.

24 [3.] 2. If requested, local area agencies on aging shall provide volunteer

25 training to those persons listed in subsection [1] 2 of [this] section **192.2150**
26 regarding the detection and report of abuse and neglect [pursuant to this section].

27 [4. Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 5. The report shall contain the names and addresses of the in-home
31 services provider agency, the in-home services employee, the in-home services
32 client, the home health agency, the home health agency employee, information
33 regarding the nature of the abuse or neglect, the name of the complainant, and
34 any other information which might be helpful in an investigation.

35 6. In addition to those persons required to report under subsection 1 of
36 this section, any other person having reasonable cause to believe that an in-home
37 services client or home health patient has been abused or neglected by an
38 in-home services employee or home health agency employee may report such
39 information to the department.

40 7. If the investigation indicates possible abuse or neglect of an in-home
41 services client or home health patient, the investigator shall refer the complaint
42 together with his or her report to the department director or his or her designee
43 for appropriate action. If, during the investigation or at its completion, the
44 department has reasonable cause to believe that immediate action is necessary
45 to protect the in-home services client or home health patient from abuse or
46 neglect, the department or the local prosecuting attorney may, or the attorney
47 general upon request of the department shall, file a petition for temporary care
48 and protection of the in-home services client or home health patient in a circuit
49 court of competent jurisdiction. The circuit court in which the petition is filed
50 shall have equitable jurisdiction to issue an ex parte order granting the
51 department authority for the temporary care and protection of the in-home
52 services client or home health patient, for a period not to exceed thirty days.

53 8. Reports shall be confidential, as provided under section 660.320.

54 9. Anyone, except any person who has abused or neglected an in-home
55 services client or home health patient, who makes a report pursuant to this
56 section or who testifies in any administrative or judicial proceeding arising from
57 the report shall be immune from any civil or criminal liability for making such
58 a report or for testifying except for liability for perjury, unless such person acted
59 negligently, recklessly, in bad faith, or with malicious purpose.

60 10. Within five working days after a report required to be made under this

61 section is received, the person making the report shall be notified in writing of
62 its receipt and of the initiation of the investigation.

63 11. No person who directs or exercises any authority in an in-home
64 services provider agency or home health agency shall harass, dismiss or retaliate
65 against an in-home services client or home health patient, or an in-home services
66 employee or a home health agency employee because he or any member of his or
67 her family has made a report of any violation or suspected violation of laws,
68 standards or regulations applying to the in-home services provider agency or
69 home health agency or any in-home services employee or home health agency
70 employee which he has reasonable cause to believe has been committed or has
71 occurred.

72 12. Any person who abuses or neglects an in-home services client or home
73 health patient is subject to criminal prosecution under section 565.180, 565.182,
74 or 565.184, RSMo. If such person is an in-home services employee and has been
75 found guilty by a court, and if the supervising in-home services provider willfully
76 and knowingly failed to report known abuse by such employee to the department,
77 the supervising in-home services provider may be subject to administrative
78 penalties of one thousand dollars per violation to be collected by the department
79 and the money received therefor shall be paid to the director of revenue and
80 deposited in the state treasury to the credit of the general revenue fund. Any
81 in-home services provider which has had administrative penalties imposed by the
82 department or which has had its contract terminated may seek an administrative
83 review of the department's action pursuant to chapter 621, RSMo. Any decision
84 of the administrative hearing commission may be appealed to the circuit court in
85 the county where the violation occurred for a trial de novo. For purposes of this
86 subsection, the term "violation" means a determination of guilt by a court.

87 13.] 3. The department shall establish a quality assurance and
88 supervision process for clients that [requires] **require** an in-home services
89 provider agency to [conduct random visits to] verify compliance with program
90 standards and verify the accuracy of records kept by an in-home services
91 employee.

92 [14. The department shall maintain the employee disqualification list and
93 place on the employee disqualification list the names of any persons who have
94 been finally determined by the department, pursuant to section 660.315, to have
95 recklessly, knowingly or purposely abused or neglected an in-home services client
96 or home health patient while employed by an in-home services provider agency

97 or home health agency. For purposes of this section only, "knowingly" and
98 "recklessly" shall have the meanings that are ascribed to them in this section. A
99 person acts "knowingly" with respect to the person's conduct when a reasonable
100 person should be aware of the result caused by his or her conduct. A person acts
101 "recklessly" when the person consciously disregards a substantial and
102 unjustifiable risk that the person's conduct will result in serious physical injury
103 and such disregard constitutes a gross deviation from the standard of care that
104 a reasonable person would exercise in the situation.

105 15.] 4. At the time a client has been assessed to determine the level of
106 care as required by rule and is eligible for in-home services, the department shall
107 conduct a "Safe at Home Evaluation" to determine the client's physical, mental,
108 and environmental capacity. The department shall develop the safe at home
109 evaluation tool by rule in accordance with chapter 536, RSMo. The purpose of the
110 safe at home evaluation is to assure that each client has the appropriate level of
111 services and professionals involved in the client's care. The plan of service or
112 care for each in-home services client shall be authorized by a nurse. The
113 department may authorize the licensed in-home services nurse, in lieu of the
114 department nurse, to conduct the assessment of the client's condition and to
115 establish a plan of services or care. The department may use the expertise,
116 services, or programs of other departments and agencies on a case-by-case basis
117 to establish the plan of service or care. The department may, as indicated by the
118 safe at home evaluation, refer any client to a mental health professional, as
119 defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

120 [16.] 5. Authorized nurse visits shall occur at least twice annually to
121 assess the client and the client's plan of services. The provider nurse shall report
122 the results of his or her visits to the client's case manager. If the provider nurse
123 believes that the plan of service requires alteration, the department shall be
124 notified and the department shall make a client evaluation. All authorized nurse
125 visits shall be reimbursed to the in-home services provider. All authorized nurse
126 visits shall be reimbursed outside of the nursing home cap for in-home services
127 clients whose services have reached one hundred percent of the average statewide
128 charge for care and treatment in an intermediate care facility, provided that the
129 services have been preauthorized by the department.

130 [17.] 6. All in-home services clients shall be advised of their rights by the
131 department at the initial evaluation. The rights shall include, but not be limited
132 to, the right to call the department for any reason, including dissatisfaction with

133 the provider or services. The department shall establish a process to receive such
134 nonabuse and neglect calls other than the elder abuse and neglect hotline.

135 [18.] 7. Subject to appropriations, all nurse visits authorized in **this**
136 **section and** sections [660.250 to 660.300] **192.2100 to 192.2130** shall be
137 reimbursed to the in-home services provider agency.

[660.321.] **192.2184.** Notwithstanding any other provision of law, the
2 department shall not disclose personally identifiable medical, social, personal, or
3 financial records of any eligible adult being served by the [division of senior
4 services] **department** except when disclosed in a manner that does not identify
5 the eligible adult, or when ordered to do so by a court of competent
6 jurisdiction. Such records shall be accessible without court order for examination
7 and copying only to the following persons or offices, or to their designees:

8 (1) The department or any person or agency designated by the department
9 for such purposes as the department may determine;

10 (2) The attorney general, to perform his or her constitutional or statutory
11 duties;

12 (3) The department of mental health for residents placed through that
13 department, to perform its constitutional or statutory duties;

14 (4) Any appropriate law enforcement agency, to perform its constitutional
15 or statutory duties;

16 (5) The eligible adult, his or her legal guardian or any other person
17 designated by the eligible adult; and

18 (6) The department of social services for individuals who receive Medicaid
19 benefits, to perform its constitutional or statutory duties.

[660.310.] **192.2187.** 1. Notwithstanding any other provision of law, if
2 the department of health and senior services proposes to deny, suspend, place on
3 probation, or terminate an in-home services provider agency contract, the
4 department of health and senior services shall serve upon the applicant or
5 contractor written notice of the proposed action to be taken. The notice shall
6 contain a statement of the type of action proposed, the basis for it, the date the
7 action will become effective, and a statement that the applicant or contractor
8 shall have thirty days from the date of mailing or delivery of the notice to file a
9 complaint requesting a hearing before the administrative hearing
10 commission. The administrative hearing commission may consolidate an
11 applicant's or contractor's complaint with any proceeding before the
12 administrative hearing commission filed by such contractor or applicant pursuant

13 to subsection 3 of section 208.156, RSMo, involving a common question of law or
14 fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120,
15 621.125, 621.135, and 621.145, RSMo, shall apply. With respect to cases in which
16 the department has denied a contract to an in-home services provider agency, the
17 administrative hearing commission shall conduct a hearing to determine the
18 underlying basis for such denial. However, if the administrative hearing
19 commission finds that the contract denial is supported by the facts and the law,
20 the case need not be returned to the department. The administrative hearing
21 commission's decision shall constitute affirmation of the department's contract
22 denial.

23 2. The department of health and senior services may issue letters of
24 censure or warning without formal notice or hearing.

25 3. The administrative hearing commission may stay the suspension or
26 termination of an in-home services provider agency's contract, or the placement
27 of the contractor on probation, pending the commission's findings and
28 determination in the cause, upon such conditions, with or without the agreement
29 of the parties, as the commission deems necessary and appropriate, including the
30 posting of bond or other security except that the commission shall not grant a
31 stay, or if a stay has already been entered shall set aside its stay, unless the
32 commission finds that the contractor has established that servicing the
33 department's clients pending the commission's final determination would not
34 present an imminent danger to the health, safety, or welfare of any client or a
35 substantial probability that death or serious physical harm would result. The
36 commission may remove the stay at any time that it finds that the contractor has
37 violated any of the conditions of the stay. Such stay shall remain in effect, unless
38 earlier removed by the commission, pending the decision of the commission and
39 any subsequent departmental action at which time the stay shall be removed. In
40 any case in which the department has refused to issue a contract, the commission
41 shall have no authority to stay or to require the issuance of a contract pending
42 final determination by the commission.

43 4. Stays granted to contractors by the administrative hearing commission
44 shall, as a condition of the stay, require at a minimum that the contractor under
45 the stay operate under the same contractual requirements and regulations as are
46 in effect, from time to time, as are applicable to all other contractors in the
47 program.

48 5. The administrative hearing commission shall make its final decision

49 based upon the circumstances and conditions as they existed at the time of the
50 action of the department and not based upon circumstances and conditions at the
51 time of the hearing or decision of the commission.

52 6. In any proceeding before the administrative hearing commission
53 pursuant to this section, the burden of proof shall be on the contractor or
54 applicant seeking review.

55 7. Any person, including the department, aggrieved by a final decision of
56 the administrative hearing commission may seek judicial review of such decision
57 as provided in section 621.145, RSMo.

[660.400.] **192.2200.** As used in sections 199.025, RSMo, and [660.403
2 to 660.420] **192.2203 to 192.2227**, unless the context clearly indicates otherwise,
3 the following terms mean:

4 (1) "Adult", an individual over the age of eighteen;

5 (2) "Adult day care program", a group program designed to provide care
6 and supervision to meet the needs of functionally impaired adults for periods of
7 less than twenty-four hours but more than two hours per day in a place other
8 than the adult's own home;

9 (3) "Adult day care provider", the person, corporation, partnership,
10 association or organization legally responsible for the overall operation of the
11 adult day care program;

12 (4) "Department", the department of [social] **health and senior** services;

13 (5) "Director", the director of the division of aging;

14 (6) "Division", the division of aging;

15 (7) "Functionally impaired adult", an adult who by reason of age or
16 infirmity requires care and supervision;

17 (8) "License", the document issued by the [division] **department** in
18 accordance with the provisions of sections [199.025, RSMo, and 660.403 to
19 660.420] **192.2203 to 192.2227** to an adult day care program which authorizes
20 the adult day care provider to operate the program in accordance with the
21 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to**
22 **192.2227** and the applicable rules promulgated pursuant thereto;

23 (9) "Participant", a functionally impaired adult who is enrolled in an adult
24 day care program;

25 (10) "Person", any individual, firm, corporation, partnership, association,
26 agency, or an incorporated or unincorporated organization regardless of the name
27 used;

28 (11) "Provisional license", the document issued by the [division]
29 **department** in accordance with the provisions of sections [199.025, RSMo, and
30 660.403 to 660.420] **192.2203 to 192.2227** to an adult day care provider which
31 is not currently meeting the requirements necessary to obtain a license;

32 (12) "Related", any of the following by blood, marriage or adoption:
33 parent, child, grandchild, brother, sister, half-brother, half-sister, stepparent,
34 uncle, aunt, niece, nephew, or first cousin;

35 (13) "Staff participant ratio", the number of adult care staff required by
36 the [division] **department** in relation to the number of adults being cared for by
37 such staff.

[660.403.] **192.2203.** 1. It shall be unlawful for any person to establish,
2 maintain, or operate an adult day care program, or to advertise or hold himself
3 out as being able to perform any adult day care service, unless he has obtained
4 the proper license.

5 2. All applications for licenses shall be made on forms provided by the
6 [division] **department** and in the manner prescribed by the [division]
7 **department**. All forms provided shall include a fee schedule.

8 3. The [division] **department** shall conduct an investigation of the adult
9 day care program, and the applicant, for which a license is sought in order to
10 determine if such program is complying with the following:

11 (1) Local fire safety requirements or fire safety requirements of the
12 [division] **department** if there are no local codes;

13 (2) Local or state sanitation requirements;

14 (3) Local building and zoning requirements, where applicable;

15 (4) Staff/adult ratios required by the [division] **department**; and

16 (5) Other applicable provisions of sections [199.025, RSMo, and 660.403
17 to 660.420] **192.2203 to 192.2227** and all applicable rules promulgated pursuant
18 thereto, including but not limited to:

19 (a) The applicant's ability to render adult day care;

20 (b) The proposed plan for providing adult day care;

21 (c) The proposed plan of operation of the adult day care program, so that,
22 in the judgment of the [division] **department**, minimum standards are being met
23 to insure the health and safety of the participants.

24 4. Following completion of its investigation made pursuant to subsection
25 3 of this section and a finding that the applicant for a license has complied with
26 all applicable rules promulgated pursuant to sections [199.025, RSMo, and

27 660.403 to 660.420] **192.2203 to 192.2227** the [division] **department** shall issue
28 a license to such applicant. Such license shall be valid for the period designated
29 by the division, which period shall not exceed two years from the date of issuance,
30 for the premises and persons named in the application.

31 5. Each license issued under sections [199.025, RSMo, and 660.403 to
32 660.420] **192.2203 to 192.2227** shall include the name of the provider, owner and
33 operator; the name of the adult day care program; the location of the adult day
34 care program; the hours of operations; the number and any limitations or the type
35 of participants who may be served; and the period for which such license is valid.

36 6. The [division] **department** may issue a provisional license to an adult
37 day care program that is not currently meeting requirements for a license but
38 which demonstrates the potential capacity to meet full requirements for license;
39 except that, no provisional license shall be issued unless the director is satisfied
40 that the operation of the adult day care program is not detrimental to the health
41 and safety of the participants being served. The provisional license shall be
42 nonrenewable and shall be valid for the period designated by the [division]
43 **department**, which period shall not exceed six months from the date of
44 issuance. Upon issuance of a regular license, a day care program's provisional
45 license shall immediately be null and void.

[660.405.] **192.2206.** 1. The provisions of sections [199.025, RSMo, and
2 660.403 to 660.420] **192.2203 to 192.2227** shall not apply to the following:

3 (1) Any adult day care program operated by a person in which care is
4 offered for no more than two hours per day;

5 (2) Any adult day care program maintained or operated by the federal
6 government except where care is provided through a management contract;

7 (3) Any person who cares solely for persons related to the provider or who
8 has been designated as guardian of that person;

9 (4) Any adult day care program which cares for no more than four persons
10 unrelated to the provider;

11 (5) Any adult day care program licensed by the department of mental
12 health under chapter 630, RSMo, which provides care, treatment and habilitation
13 exclusively to adults who have a primary diagnosis of mental disorder, mental
14 illness, mental retardation or developmental disability as defined;

15 (6) Any adult day care program administered or maintained by a religious
16 not-for-profit organization serving a social or religious function if the adult day
17 care program does not hold itself out as providing the prescription or usage of

18 physical or medical therapeutic activities or as providing or administering
19 medicines or drugs.

20 2. Nothing in this section shall prohibit any person listed in subsection
21 1 of this section from applying for a license or receiving a license if the adult day
22 care program owned or operated by such person conforms to the provisions of
23 sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** and all
24 applicable rules promulgated pursuant thereto.

 [660.407.] **192.2209.** 1. The director, or his authorized representative,
2 shall have the right to enter the premises of an applicant for or holder of a license
3 at any time during the hours of operation of a center to determine compliance
4 with provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to**
5 **192.2227** and applicable rules promulgated pursuant thereto. Entry shall also
6 be granted for investigative purposes involving complaints regarding the
7 operations of an adult day care program. The [division] **department** shall make
8 at least two inspections per year, at least one of which shall be unannounced to
9 the operator or provider. The [division] **department** may make such other
10 inspections, announced or unannounced, as it deems necessary to carry out the
11 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to**
12 **192.2227**.

13 2. The applicant for or holder of a license shall cooperate with the
14 investigation and inspection by providing access to the adult day care program,
15 records and staff, and by providing access to the adult day care program to
16 determine compliance with the rules promulgated pursuant to sections [199.025,
17 RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**.

18 3. Failure to comply with any lawful request of the [division]
19 **department** in connection with the investigation and inspection is a ground for
20 refusal to issue a license or for the suspension or revocation of a license.

21 4. The [division] **department** may designate to act for it, with full
22 authority of law, any instrumentality of any political subdivision of the state of
23 Missouri deemed by the [division] **department** to be competent to investigate
24 and inspect applicants for or holders of licenses.

 [660.409.] **192.2212.** Each application for a license, or the renewal
2 thereof, issued pursuant to sections [199.025, RSMo, and 660.403 to 660.420]
3 **192.2203 to 192.2227** shall be accompanied by a nonrefundable fee in the
4 amount required by the [division] **department**. The fee, to be determined by the
5 director [of the division], shall not exceed one hundred dollars and shall be based

6 on the licensed capacity of the applicant.

[660.411.] **192.2215.** The [division] **department** shall offer technical
2 assistance or consultation to assist applicants for or holders of licenses or
3 provisional licenses in meeting the requirements of sections [199.025, RSMo, and
4 660.403 to 660.420] **192.2203 to 192.2227**, staff qualifications, and other aspects
5 involving the operation of an adult day care program, and to assist in the
6 achievement of programs of excellence related to the provision of adult day care.

[660.414.] **192.2218.** 1. Whenever the [division] **department** is advised
2 or has reason to believe that any person is operating an adult day care program
3 without a license, or provisional license, or that any holder of license, or
4 provisional license is not in compliance with the provisions of sections [199.025,
5 RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, the [division]
6 **department** shall make an investigation and inspection to ascertain the facts.
7 If the [division] **department** is not permitted access to the adult day care
8 program in question, the [division] **department** may apply to the circuit court
9 of the county in which the program is located for an order authorizing entry for
10 inspection. The court shall issue the order if it finds reasonable grounds
11 necessitating the inspection.

12 2. If the [division] **department** finds that the adult day care program is
13 being operated in violation of sections [199.025, RSMo, and 660.403 to 660.420]
14 **192.2203 to 192.2227**, it may seek, among other remedies, injunctive relief
15 against the adult day care program.

[660.416.] **192.2221.** 1. Any person aggrieved by an official action of the
2 [division] **department** either refusing to issue a license or revoking or
3 suspending a license may seek a determination thereon by the administrative
4 hearing commission pursuant to the provisions of section [161.272] **621.045**,
5 RSMo, et seq.; except that, the petition must be filed with the administrative
6 hearing commission within thirty days after the mailing or delivery of notice to
7 the applicant for or holder of such license or certificate. When the notification of
8 the official action is mailed to the applicant for or holder of such a license, there
9 shall be included in the notice a statement of the procedure whereby the
10 applicant for or holder of such license may appeal the decision of the [division]
11 **department** before the administrative hearing commission. It shall not be a
12 condition to such determination that the person aggrieved seek a reconsideration,
13 a rehearing or exhaust any other procedure within the [division] **department**.

14 2. The administrative hearing commission may stay the revocation or

15 suspension of such certificate or license, pending the commission's findings and
16 determination in the cause, upon such conditions as the commission deems
17 necessary and appropriate including the posting of bond or other security; except
18 that, the commission shall not grant a stay or if a stay has already been entered
19 shall set aside its stay, if, upon application of the [division] **department**, the
20 commission finds reason to believe that continued operation of the facility to
21 which the certificate or license in question applies pending the commission's final
22 determination would present an imminent danger to the health, safety or welfare
23 of any person or a substantial probability that death or serious physical harm
24 would result. In any case in which the [division] **department** has refused to
25 issue a certificate or license, the commission shall have no authority to stay or to
26 require the issuance of a license pending final determination by the commission.

27 3. The administrative hearing commission shall make the final decision
28 as to the issuance, suspension, or revocation of a license. Any person aggrieved
29 by a final decision of the administrative hearing commission, including the
30 [division] **department**, may seek judicial review of such decision by filing a
31 petition for review in the court of appeals for the district in which the adult day
32 care program to which the license in question applies is located. Review shall be
33 had in accordance with the provisions of sections [161.337 and 161.338] **621.189**
34 **and 621.193**, RSMo.

 [660.418.] **192.2224**. The director [of the division] shall have the
2 authority to promulgate rules pursuant to this section and chapter 536, RSMo,
3 in order to carry out the provisions of sections [199.025, RSMo, and 660.403 to
4 660.420. No rule or portion of a rule promulgated under the authority of section
5 199.025, RSMo, and sections 660.403 to 660.420 shall become effective unless it
6 has been promulgated pursuant to the provisions of section 536.024, RSMo]
7 **192.2203 to 192.2227. Any rule or portion of a rule, as that term is**
8 **defined in section 536.010, RSMo, that is created under the authority**
9 **delegated in sections 192.2203 to 192.2227 shall become effective only**
10 **if it complies with and is subject to all of the provisions of chapter 536,**
11 **RSMo, and, if applicable, section 536.028, RSMo. Sections 192.2203 to**
12 **192.2227 and chapter 536, RSMo, are nonseverable and if any of the**
13 **powers vested with the general assembly pursuant to chapter 536,**
14 **RSMo, to review, to delay the effective date, or to disapprove and annul**
15 **a rule are subsequently held unconstitutional, then the grant of**
16 **rulemaking authority and any rule proposed or adopted after August**

17 **28, 2006, shall be invalid and void.**

[660.420.] **192.2227.** 1. Any person who violates any provision of
2 sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, or who,
3 for himself or for any other person, makes materially false statements in order
4 to obtain a certificate or license, or the renewal thereof, issued pursuant to
5 sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, shall
6 be guilty of a class A misdemeanor.

7 2. Any person who is convicted pursuant to this section shall, in addition
8 to all other penalties provided by law, have any license issued to [him] **such**
9 **person** under sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to**
10 **192.2227** revoked, and shall not operate, nor hold any license to operate, any
11 adult day care program, or other entity governed by the provisions of sections
12 [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** for a period of
13 three years after such conviction.

[660.620.] **192.2250.** 1. There is hereby established an "Office of
2 Advocacy and Assistance for Senior Citizens" within the office of lieutenant
3 governor.

4 2. The senior citizen advocate shall coordinate activities with the
5 long-term care ombudsman program, as defined in section [660.600] **198.700**, on
6 complaints made by or on behalf of senior citizens residing in long-term care
7 facilities.

8 3. The senior citizen advocate shall conduct a suitable investigation into
9 any actions complained of unless the senior citizen advocate finds that the
10 complaint pertains to a matter outside the scope of the authority of the senior
11 citizen advocate, the complainant has no substantive or procedural interest which
12 is directly affected by the matter complained about, or the complaint is trivial,
13 frivolous, vexatious or not made in good faith.

14 4. After completing his investigation of a complaint, the senior citizen
15 advocate shall inform the complainant, the agency, official or employee of action
16 recommended by the senior citizen advocate. The senior citizen advocate shall
17 make such reports and recommendations to the affected agencies, the governor
18 and the general assembly as he deems necessary to further the purposes of
19 sections [660.620 and 660.625] **192.2250 and 192.2253.**

20 5. The senior citizen advocate shall, in conjunction with the division of
21 senior services, act as a clearinghouse for information pertaining to and of
22 interest to senior citizens and shall disseminate such information as is necessary

23 to inform senior citizens of their rights and of governmental and nongovernmental
24 services available to them.

[660.625.] **192.2253.** The senior citizen advocate shall maintain
2 confidentiality with respect to all matters, including the identities of the
3 complainants or witnesses coming before the senior citizen advocate unless the
4 complainant consents to the use of his or her name in the course of the
5 investigation.

197.101. 1. The department of health and senior services shall
2 **promulgate rules to establish a schedule of fees to be paid by the**
3 **applicant for the architectural plan review of new construction and**
4 **alterations to health facilities under this chapter and chapter 198,**
5 **RSMo. The department of health and senior services shall have the**
6 **authority to waive or reduce the plan review fees. All fees provided for**
7 **in this section shall be collected by the director of the department of**
8 **health and senior services who shall deposit the same with the state**
9 **treasurer for placement in the Missouri public health services fund as**
10 **established in section 192.900, RSMo. The provisions of section 33.080,**
11 **RSMo, to the contrary notwithstanding, moneys in the fund shall not be**
12 **transferred and placed to the credit of the general revenue at the end**
13 **of the biennium, but shall be used, upon appropriation by the general**
14 **assembly for the purpose of carrying out the provisions of this chapter**
15 **and chapter 198, RSMo.**

16 **2. Any rule or portion of a rule, as that term is defined in section**
17 **536.010, RSMo, that is created under the authority delegated in this**
18 **section shall become effective only if it complies with and is subject to**
19 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
20 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
21 **and if any of the powers vested with the general assembly pursuant to**
22 **chapter 536, RSMo, to review, to delay the effective date, or to**
23 **disapprove and annul a rule are subsequently held unconstitutional,**
24 **then the grant of rulemaking authority and any rule proposed or**
25 **adopted after August 28, 2006, shall be invalid and void.**

198.006. As used in sections 198.003 to 198.186, unless the context clearly
2 indicates otherwise, the following terms mean:

- 3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;
4 **including financial exploitation by any person, firm, or corporation;**
5 (2) "Administrator", the person who is in general administrative charge

6 of a facility;

7 (3) "Affiliate":

8 (a) With respect to a partnership, each partner thereof;

9 (b) With respect to a limited partnership, the general partner and each
10 limited partner with an interest of five percent or more in the limited
11 partnership;

12 (c) With respect to a corporation, each person who owns, holds or has the
13 power to vote five percent or more of any class of securities issued by the
14 corporation, and each officer and director;

15 (d) With respect to a natural person, any parent, child, sibling, or spouse
16 of that person;

17 (4) "Department", the Missouri department of health and senior services;

18 (5) "Emergency", a situation, physical condition or one or more practices,
19 methods or operations which presents imminent danger of death or serious
20 physical or mental harm to residents of a facility;

21 (6) "Facility", any residential care facility I, residential care facility II,
22 immediate care facility, or skilled nursing facility;

23 (7) "Health care provider", any person providing health care services or
24 goods to residents and who receives funds in payment for such goods or services
25 under Medicaid;

26 (8) "Intermediate care facility", any premises, other than a residential
27 care facility I, residential care facility II, or skilled nursing facility, which is
28 utilized by its owner, operator, or manager to provide twenty-four hour
29 accommodation, board, personal care, and basic health and nursing care services
30 under the daily supervision of a licensed nurse and under the direction of a
31 licensed physician to three or more residents dependent for care and supervision
32 and who are not related within the fourth degree of consanguinity or affinity to
33 the owner, operator or manager of the facility;

34 (9) "Manager", any person other than the administrator of a facility who
35 contracts or otherwise agrees with an owner or operator to supervise the general
36 operation of a facility, providing such services as hiring and training personnel,
37 purchasing supplies, keeping financial records, and making reports;

38 (10) "Medicaid", medical assistance under section 208.151, RSMo, et seq.,
39 in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social
40 Security Act (42 U.S.C. 301 et seq.), as amended;

41 (11) "Neglect", the failure to provide, by those responsible for the care,

42 custody, and control of a resident in a facility, the services which are reasonable
43 and necessary to maintain the physical and mental health of the resident, when
44 such failure presents either an imminent danger to the health, safety or welfare
45 of the resident or a substantial probability that death or serious physical harm
46 would result;

47 (12) "Operator", any person licensed or required to be licensed under the
48 provisions of sections 198.003 to 198.096 in order to establish, conduct or
49 maintain a facility;

50 (13) "Owner", any person who owns an interest of five percent or more in:

51 (a) The land on which any facility is located;

52 (b) The structure or structures in which any facility is located;

53 (c) Any mortgage, contract for deed, or other obligation secured in whole
54 or in part by the land or structure in or on which a facility is located; or

55 (d) Any lease or sublease of the land or structure in or on which a facility
56 is located.

57 "Owner" does not include a holder of a debenture or bond purchased at public
58 issue nor does it include any regulated lender unless the entity or person directly
59 or through a subsidiary operates a facility;

60 (14) "Protective oversight", an awareness twenty-four hours a day of the
61 location of a resident, the ability to intervene on behalf of the resident, the
62 supervision of nutrition, medication, or actual provisions of care, and the
63 responsibility for the welfare of the resident, except where the resident is on
64 voluntary leave;

65 (15) "Resident", a person who by reason of aging, illness, disease, or
66 physical or mental infirmity receives or requires care and services furnished by
67 a facility and who resides or boards in or is otherwise kept, cared for, treated or
68 accommodated in such facility for a period exceeding twenty-four consecutive
69 hours;

70 (16) "Residential care facility I", any premises, other than a residential
71 care facility II, intermediate care facility, or skilled nursing facility, which is
72 utilized by its owner, operator or manager to provide twenty-four hour care to
73 three or more residents, who are not related within the fourth degree of
74 consanguinity or affinity to the owner, operator, or manager of the facility and
75 who need or are provided with shelter, board, and with protective oversight,
76 which may include storage and distribution or administration of medications and
77 care during short-term illness or recuperation;

78 (17) "Residential care facility II", any premises, other than a residential
79 care facility I, an intermediate care facility, or a skilled nursing facility, which
80 is utilized by its owner, operator or manager to provide twenty-four hour
81 accommodation, board, and care to three or more residents who are not related
82 within the fourth degree of consanguinity or affinity to the owner, operator, or
83 manager of the facility, and who need or are provided with supervision of diets,
84 assistance in personal care, storage and distribution or administration of
85 medications, supervision of health care under the direction of a licensed
86 physician, and protective oversight, including care during short-term illness or
87 recuperation;

88 (18) "Skilled nursing facility", any premises, other than a residential care
89 facility I, a residential care facility II, or an intermediate care facility, which is
90 utilized by its owner, operator or manager to provide for twenty-four hour
91 accommodation, board and skilled nursing care and treatment services to at least
92 three residents who are not related within the fourth degree of consanguinity or
93 affinity to the owner, operator or manager of the facility. Skilled nursing care
94 and treatment services are those services commonly performed by or under the
95 supervision of a registered professional nurse for individuals requiring
96 twenty-four hours a day care by licensed nursing personnel including acts of
97 observation, care and counsel of the aged, ill, injured or infirm, the
98 administration of medications and treatments as prescribed by a licensed
99 physician or dentist, and other nursing functions requiring substantial specialized
100 judgment and skill;

101 (19) "Vendor", any person selling goods or services to a health care
102 provider;

103 (20) "Voluntary leave", an off-premise leave initiated by:

104 (a) A resident that has not been declared mentally incompetent or
105 incapacitated by a court; or

106 (b) A legal guardian of a resident that has been declared mentally
107 incompetent or incapacitated by a court.

198.090. 1. An operator may make available to any resident the service
2 of holding in trust personal possessions and funds of the resident and shall, as
3 authorized by the resident, expend the funds to meet the resident's personal
4 needs. In providing this service the operator shall:

5 (1) At the time of admission, provide each resident or his next of kin or
6 legal guardian with a written statement explaining the resident's rights

7 regarding personal funds;

8 (2) Accept funds and personal possessions from or for a resident for
9 safekeeping and management, only upon written authorization by the resident or
10 by his designee, or guardian in the case of an adjudged incompetent;

11 (3) Deposit any personal funds received from or on behalf of a resident in
12 an account separate from the facility's funds, except that an amount to be
13 established by rule of the division of aging may be kept in a petty cash fund for
14 the resident's personal needs;

15 (4) Keep a written account, available to a resident and his designee or
16 guardian, maintained on a current basis for each resident, with written receipts,
17 for all personal possessions and funds received by or deposited with the facility
18 and for all disbursements made to or on behalf of the resident;

19 (5) Provide each resident or his designee or guardian with a quarterly
20 accounting of all financial transactions made on behalf of the resident;

21 (6) Within five days of the discharge of a resident, provide the resident,
22 or his designee or guardian, with an up-to-date accounting of the resident's
23 personal funds and return to the resident the balance of his funds and all his
24 personal possessions;

25 (7) Upon the death of a resident who has been a recipient of aid,
26 assistance, care, services, or who has had moneys expended on his behalf by the
27 department of social services, provide the department a complete account of all
28 the resident's personal funds within sixty days from the date of death.

29 The total amount paid to the decedent or expended upon his behalf by the
30 department shall be a debt due the state and recovered from the available funds
31 upon the department's claim on such funds. The department shall make a claim
32 on the funds within sixty days from the date of the accounting of the funds by the
33 facility. The nursing facility shall pay the claim made by the department of social
34 services from the resident's personal funds within sixty days. Where the name
35 and address are reasonably ascertainable, the department of social services shall
36 give notice of the debt due the state to the person whom the recipient had
37 designated to receive the quarterly accounting of all financial transactions made
38 under this section, or the resident's guardian or conservator or the person or
39 persons listed in nursing home records as a responsible party or the fiduciary of
40 the resident's estate. If any funds are available after the department's claim, the
41 remaining provisions of this section shall apply to the balance, unless the funds
42 belonged to a person other than the resident, in which case the funds shall be

43 paid to that person;

44 (8) Upon the death of a resident who has not been a recipient of aid,
45 assistance, care, services, or who has not had moneys expended on his behalf by
46 the department of social services or the department has not made a claim on the
47 funds, provide the fiduciary of resident's estate, at the fiduciary's request, a
48 complete account of all the resident's personal funds and possessions and deliver
49 to the fiduciary all possessions of the resident and the balance of the resident's
50 funds. If, after one year from the date of death, no fiduciary makes claim upon
51 such funds or possessions, the operator shall notify the department that the funds
52 remain unclaimed. Such unclaimed funds or possessions shall be disposed of as
53 follows:

54 (a) If the unclaimed funds or possessions have a value totaling one
55 hundred and fifty dollars or less, the funds or the proceeds of the sale of the
56 possessions may be deposited in a fund to be used for the benefit of all residents
57 of the facility by providing the residents social or educational activities. The
58 facility shall keep an accounting of the acquisitions and expenditure of these
59 funds; or

60 (b) If the unclaimed funds or possessions have a value greater than one
61 hundred and fifty dollars, the funds or possessions shall be immediately
62 presumed to be abandoned property under sections 447.500 to 447.585, RSMo,
63 and the procedures provided for in those sections shall apply notwithstanding any
64 other provisions of those sections which require a period greater than two years
65 for a presumption of abandonment;

66 (9) Upon ceasing to be the operator of a facility, all funds and property
67 held in trust pursuant to this section shall be transferred to the new operator in
68 accordance with sound accounting principles, and a closeout report signed by both
69 the outgoing operator and the successor operator shall be prepared. The closeout
70 report shall include a list of current balances of all funds held for residents
71 respectively and an inventory of all property held for residents respectively. If
72 the outgoing operator refuses to sign the closeout report, he shall state in writing
73 the specific reasons for his failure to so sign, and the successor operator shall
74 complete the report and attach an affidavit stating that the information contained
75 therein is true to the best of his knowledge and belief. Such report shall be
76 retained with all other records and accounts required to be maintained under this
77 section;

78 (10) Not be required to invest any funds received from or on behalf of a

79 resident, nor to increase the principal of any such funds.

80 2. Any owner, operator, manager, employee, or affiliate of an owner or
81 operator who receives any personal property or anything else of value from a
82 resident, shall, if the thing received has a value of ten dollars or more, make a
83 written statement giving the date it was received, from whom it was received, and
84 its estimated value. Statements required to be made pursuant to this subsection
85 shall be retained by the operator and shall be made available for inspection by
86 the department, or by the department of mental health when the resident has
87 been placed by that department, and by the resident, and his designee or legal
88 guardian. Any person who fails to make a statement required by this subsection
89 is guilty of a class C misdemeanor.

90 3. No owner, operator, manager, employee, or affiliate of an owner or
91 operator shall in one calendar year receive any personal property or anything else
92 of value from the residents of any facility which have a total estimated value in
93 excess of one hundred dollars.

94 4. Subsections 2 and 3 of this section shall not apply if the property or
95 other thing of value is held in trust in accordance with subsection 1 of this
96 section, is received in payment for services rendered or pursuant to the terms of
97 a lawful contract, or is received from a resident who is related to the recipient
98 within the fourth degree of consanguinity or affinity.

99 5. Any operator who fails to maintain records or who fails to maintain any
100 resident's personal funds in an account separate from the facility's funds as
101 required by this section shall be guilty of a class C misdemeanor.

102 6. Any operator, or any affiliate or employee of an operator, who puts to
103 his own use or the use of the facility or otherwise diverts from the resident's use
104 any personal funds of the resident shall be guilty of a class A misdemeanor.

105 [7. Any person having reasonable cause to believe that a misappropriation
106 of a resident's funds or property has occurred may report such information to the
107 department.

108 8. For each report the division shall attempt to obtain the name and
109 address of the facility, the name of the facility employee, the name of the
110 resident, information regarding the nature of the misappropriation, the name of
111 the complainant, and any other information which might be helpful in an
112 investigation.

113 9. Upon receipt of a report, the department shall initiate an investigation.

114 10. If the investigation indicates probable misappropriation of property

115 or funds of a resident, the investigator shall refer the complaint together with his
116 report to the department director or his designee for appropriate action.

117 11. Reports shall be confidential, as provided under section 660.320,
118 RSMo.

119 12. Anyone, except any person participating in or benefiting from the
120 misappropriation of funds, who makes a report pursuant to this section or who
121 testifies in any administrative or judicial proceeding arising from the report shall
122 be immune from any civil or criminal liability for making such a report or for
123 testifying except for liability for perjury, unless such person acted negligently,
124 recklessly, in bad faith, or with malicious purpose.

125 13. Within five working days after a report required to be made under this
126 section is received, the person making the report shall be notified in writing of
127 its receipt and of the initiation of the investigation.

128 14. No person who directs or exercises any authority in a facility shall
129 evict, harass, dismiss or retaliate against a resident or employee because he or
130 any member of his family has made a report of any violation or suspected
131 violation of laws, ordinances or regulations applying to the facility which he has
132 reasonable cause to believe has been committed or has occurred.

133 15. The department shall maintain the employee disqualification list and
134 place on the employee disqualification list the names of any persons who have
135 been finally determined by the department, pursuant to section 660.315, RSMo,
136 to have misappropriated any property or funds of a resident while employed in
137 any facility.]

198.532. 1. Complaints filed with the department of health and senior
2 services against a long-term care facility which allege that harm has occurred or
3 is likely to occur to a resident or residents of the facility due to actions or the lack
4 of actions taken by the facility shall be investigated within thirty days of receipt
5 of such complaints. The purpose of such investigation shall be to ensure the
6 safety, protection and care of all residents of the facility likely to be affected by
7 the alleged action or inaction. Such investigation shall be in addition to the
8 investigation requirements for abuse and neglect reports pursuant to section
9 [198.070] **192.2150, RSMo.**

10 2. The department shall provide the results of all investigations in
11 accordance with section [660.320] **192.2150, RSMo.** The department shall
12 provide the results of such investigation in writing to all parties to the complaint,
13 and if requested, to any of the facility's residents, or their family members or

14 guardians. Complaints and written results will be readily available for public
15 access and review at the department of health and senior services and at the
16 long-term care facility. Personal information identifying the resident will be
17 blanked out, except in regard to immediate family, the attorney-in-fact or the
18 legal guardian of the resident in question. This information will remain readily
19 available for a period of time determined by the department of health and senior
20 services.

[660.600.] **198.700.** As used in sections [660.600 to 660.608] **198.700 to**
2 **198.708**, the following terms mean:

3 (1) "Division", the division of aging of the department of [social] **health**
4 **and senior** services;

5 (2) "Long-term care facility", any facility licensed pursuant to chapter 198,
6 RSMo, and long-term care facilities connected with hospitals licensed pursuant
7 to chapter 197, RSMo;

8 (3) "Office", the office of the state ombudsman for long-term care facility
9 residents;

10 (4) "Ombudsman", the state ombudsman for long-term care facility
11 residents;

12 (5) "Regional ombudsman coordinators", designated individuals working
13 for, or under contract with, the area agencies on aging, and who are so designated
14 by the area agency on aging and certified by the ombudsman as meeting the
15 qualifications established by the [division] **department**;

16 (6) "Resident", any person who is receiving care or treatment in a
17 long-term care facility.

[660.603.] **198.703.** 1. There is hereby established within the
2 department of health and senior services the "Office of State Ombudsman for
3 Long-Term Care Facility Residents", for the purpose of helping to assure the
4 adequacy of care received by residents of long-term care facilities and to improve
5 the quality of life experienced by them, in accordance with the federal Older
6 Americans Act, 42 U.S.C. 3001, et seq.

7 2. The office shall be administered by the state ombudsman, who shall
8 devote his or her entire time to the duties of his or her position.

9 3. The office shall establish and implement procedures for receiving,
10 processing, responding to, and resolving complaints made by or on behalf of
11 residents of long-term care facilities relating to action, inaction, or decisions of
12 providers, or their representatives, of long-term care services, of public agencies

13 or of social service agencies, which may adversely affect the health, safety,
14 welfare or rights of such residents.

15 4. The department shall establish and implement procedures for
16 resolution of complaints. The ombudsman or representatives of the office shall
17 have the authority to:

18 (1) Enter any long-term care facility and have access to residents of the
19 facility at a reasonable time and in a reasonable manner. The ombudsman shall
20 have access to review resident records, if given permission by the resident or the
21 resident's legal guardian. Residents of the facility shall have the right to request,
22 deny, or terminate visits with an ombudsman;

23 (2) Make the necessary inquiries and review such information and records
24 as the ombudsman or representative of the office deems necessary to accomplish
25 the objective of verifying these complaints.

26 5. The office shall acknowledge complaints, report its findings, make
27 recommendations, gather and disseminate information and other material, and
28 publicize its existence.

29 6. The ombudsman may recommend to the relevant governmental agency
30 changes in the rules and regulations adopted or proposed by such governmental
31 agency which do or may adversely affect the health, safety, welfare, or civil or
32 human rights of any resident in a facility. The office shall analyze and monitor
33 the development and implementation of federal, state and local laws, regulations
34 and policies with respect to long-term care facilities and services in the state and
35 shall recommend to the department changes in such laws, regulations and
36 policies deemed by the office to be appropriate.

37 7. The office shall promote community contact and involvement with
38 residents of facilities through the use of volunteers and volunteer programs
39 directed by the regional ombudsman coordinators.

40 8. The office shall develop and establish by regulation of the department
41 statewide policies and standards for implementing the activities of the
42 ombudsman program, including the qualifications and the training of regional
43 ombudsman coordinators and ombudsman volunteers.

44 9. The office shall develop and propose programs for use, training and
45 coordination of volunteers in conjunction with the regional ombudsman
46 coordinators and may:

47 (1) Establish and conduct recruitment programs for volunteers;

48 (2) Establish and conduct training seminars, meetings and other programs

49 for volunteers; and

50 (3) Supply personnel, written materials and such other reasonable
51 assistance, including publicizing their activities, as may be deemed necessary.

52 10. The regional ombudsman coordinators and ombudsman volunteers
53 shall have the authority to report instances of abuse and neglect to the
54 ombudsman hotline operated by the department.

55 11. If the regional ombudsman coordinator or volunteer finds that a
56 nursing home administrator is not willing to work with the ombudsman program
57 to resolve complaints, the state ombudsman shall be notified. The department
58 shall establish procedures by rule in accordance with chapter 536, RSMo, for
59 implementation of this subsection.

60 12. The office shall prepare and distribute to each facility written notices
61 which set forth the address and telephone number of the office, a brief
62 explanation of the function of the office, the procedure to follow in filing a
63 complaint and other pertinent information.

64 13. The administrator of each facility shall ensure that such written
65 notice is given to every resident or the resident's guardian upon admission to the
66 facility and to every person already in residence, or to his guardian. The
67 administrator shall also post such written notice in a conspicuous, public place
68 in the facility in the number and manner set forth in the regulations adopted by
69 the department.

70 14. The office shall inform residents, their guardians or their families of
71 their rights and entitlements under state and federal laws and rules and
72 regulations by means of the distribution of educational materials and group
73 meetings.

[660.605.] **198.705.** 1. Any files maintained by the ombudsman program
2 shall be disclosed only at the discretion of the ombudsman having authority over
3 the disposition of such files, except that the identity of any complainant or
4 resident of a long-term care facility shall not be disclosed by such ombudsman
5 unless:

6 (1) Such complainant or resident, or the complainant's or resident's legal
7 representative, consents in writing to such disclosure; or

8 (2) Such disclosure is required by court order.

9 2. Any representative of the office conducting or participating in any
10 examination of a complaint who shall knowingly and willfully disclose to any
11 person other than the office, or those authorized by the office to receive it, the

12 name of any witness examined or any information obtained or given upon such
13 examination, shall be guilty of a class A misdemeanor. However, the ombudsman
14 conducting or participating in any examination of a complaint shall disclose the
15 final result of the examination to the facility with the consent of the resident.

16 3. Any statement or communication made by the office relevant to a
17 complaint received by, proceedings before or activities of the office and any
18 complaint or information made or provided in good faith by any person, shall be
19 absolutely privileged and such person shall be immune from suit.

20 4. The office shall not be required to testify in any court with respect to
21 matters held to be confidential in this section except as the court may deem
22 necessary to enforce the provisions of sections [660.600 to 660.608] **198.700 to**
23 **198.708**, or where otherwise required by court order.

[660.608.] **198.708.** 1. Any regional coordinator or local program staff,
2 whether an employee or an unpaid volunteer, shall be treated as a representative
3 of the office. No representative of the office shall be held liable for good faith
4 performance of his **or her** official duties under the provisions of sections [660.600
5 to 660.608] **198.700 to 198.708** and shall be immune from suit for the good faith
6 performance of such duties. Every representative of the office shall be considered
7 a state employee under section 105.711, RSMo.

8 2. No reprisal or retaliatory action shall be taken against any resident or
9 employee of a long-term care facility for any communication made or information
10 given to the office. Any person who knowingly or willfully violates the provisions
11 of this subsection shall be guilty of a class A misdemeanor. Any person who
12 serves or served on a quality assessment and assurance committee required under
13 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as amended, shall be
14 immune from civil liability only for acts done directly as a member of such
15 committee so long as the acts are performed in good faith, without malice and are
16 required by the activities of such committee as defined in 42 CFR sec. 483.75(r).

208.909. 1. Consumers receiving personal care assistance services shall
2 be responsible for:

- 3 (1) Supervising their personal care attendant;
- 4 (2) Verifying wages to be paid to the personal care attendant;
- 5 (3) Preparing and submitting time sheets, signed by both the consumer
6 and personal care attendant, to the vendor on a biweekly basis;
- 7 (4) Promptly notifying the department within ten days of any changes in
8 circumstances affecting the personal care assistance services plan or in the

9 consumer's place of residence; and

10 (5) Reporting any problems resulting from the quality of services rendered
11 by the personal care attendant to the vendor. If the consumer is unable to resolve
12 any problems resulting from the quality of service rendered by the personal care
13 attendant with the vendor, the consumer shall report the situation to the
14 department.

15 2. Participating vendors shall be responsible for:

16 (1) Collecting time sheets and certifying their accuracy;

17 (2) The Medicaid reimbursement process, including the filing of claims
18 and reporting data to the department as required by rule;

19 (3) Transmitting the individual payment directly to the personal care
20 attendant on behalf of the consumer;

21 (4) Monitoring the performance of the personal care assistance services
22 plan.

23 3. No state or federal financial assistance shall be authorized or expended
24 to pay for services provided to a consumer under sections 208.900 to 208.927, if
25 the primary benefit of the services is to the household unit, or is a household task
26 that the members of the consumer's household may reasonably be expected to
27 share or do for one another when they live in the same household, unless such
28 service is above and beyond typical activities household members may reasonably
29 provide for another household member without a disability.

30 4. No state or federal financial assistance shall be authorized or expended
31 to pay for personal care assistance services provided by a personal care attendant
32 who is listed on **the employee disqualification list maintained by the**
33 **department of health and senior services under section 192.2150, RSMo,**
34 **or** any of the background check lists in the family care safety registry under
35 sections 210.900 to 210.937, RSMo, unless a good cause waiver is first obtained
36 from the department in accordance with section [660.317] **192.2178, RSMo.**

208.912. 1. [When any adult day care worker; chiropractor, Christian
2 Science practitioner, coroner, dentist, embalmer, employee of the departments of
3 social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; funeral
5 director; home health agency or home health agency employee; hospital and clinic
6 personnel engaged in examination, care, or treatment of persons; in-home services
7 owner, provider, operator, or employee; law enforcement officer; long-term care
8 facility administrator or employee; medical examiner; medical resident or intern;

9 mental health professional; minister; nurse; nurse practitioner; optometrist; other
10 health practitioner; peace officer; pharmacist; physical therapist; physician;
11 physician's assistant; podiatrist; probation or parole officer; psychologist; vendor
12 as defined in section 208.900; personal care attendant; or social worker has
13 reasonable cause to believe that a consumer has been abused or neglected as
14 defined in section 660.250, RSMo, as a result of the delivery of or failure to
15 deliver personal care assistance services, he or she shall immediately report or
16 cause a report to be made to the department. If the report is made by a physician
17 of the consumer, the department shall maintain contact with the physician
18 regarding the progress of the investigation.

19 2.] When a report of deteriorating physical condition resulting in possible
20 abuse or neglect of a consumer is received by the department, the department's
21 case manager and the department nurse shall be notified. The case manager
22 shall investigate and immediately report the results of the investigation to the
23 department nurse.

24 [3.] 2. If requested, local area agencies on aging shall provide volunteer
25 training to those persons listed in subsection 1 of this section regarding the
26 detection and reporting of abuse and neglect under this section.

27 [4. Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 5. The report shall contain the names and addresses of the vendor, the
31 personal care attendant, and the consumer, and information regarding the nature
32 of the abuse or neglect, the name of the complainant, and any other information
33 which might be helpful in an investigation.

34 6. In addition to those persons required to report under subsection 1 of
35 this section, any other person having reasonable cause to believe that a consumer
36 has been abused or neglected by a personal care attendant may report such
37 information to the department.

38 7. If the investigation indicates possible abuse or neglect of a consumer,
39 the investigator shall refer the complaint together with his or her report to the
40 department director or his or her designee for appropriate action. If, during the
41 investigation or at its completion, the department has reasonable cause to believe
42 that immediate action is necessary to protect the consumer from abuse or neglect,
43 the department or the local prosecuting attorney may, or the attorney general
44 upon request of the department shall, file a petition for temporary care and

45 protection of the consumer in a circuit court of competent jurisdiction. The circuit
46 court in which the petition is filed shall have equitable jurisdiction to issue an ex
47 parte order granting the department authority for the temporary care and
48 protection of consumer, for a period not to exceed thirty days.

49 8. Reports shall be confidential, as provided under section 660.320, RSMo.

50 9. Anyone, except any person who has abused or neglected a consumer,
51 who makes a report pursuant to this section or who testifies in any
52 administrative or judicial proceeding arising from the report shall be immune
53 from any civil or criminal liability for making such a report or for testifying,
54 except for liability for perjury, unless such person acted negligently, recklessly,
55 in bad faith, or with malicious purpose.

56 10. Within five working days after a report required to be made under this
57 section is received, the person making the report shall be notified of its receipt
58 and of the initiation of the investigation.

59 11. No person who directs or exercises any authority as a vendor, and no
60 personal care attendant, shall harass, dismiss or retaliate against a consumer
61 because he or she or any member of his or her family has made a report of any
62 violation or suspected violation of laws, standards or regulations applying to the
63 vendor or personal care attendant which he or she has reasonable cause to believe
64 has been committed or has occurred.

65 12. The department shall place on the employee disqualification list
66 established in section 660.315, RSMo, the names of any persons who have been
67 finally determined by the department to have recklessly, knowingly or purposely
68 abused or neglected a consumer while employed by a vendor, or employed by a
69 consumer as a personal care attendant.

70 13. The department shall provide the list maintained pursuant to section
71 660.315, RSMo, to vendors as defined in section 208.900.

72 14. Any person, corporation or association who received the employee
73 disqualification list under subsection 13 of this section, or any person responsible
74 for providing health care service, who declines to employ or terminates a person
75 whose name is listed in this section shall be immune from suit by that person or
76 anyone else acting for or in behalf of that person for the failure to employ or for
77 the termination of the person whose name is listed on the employee
78 disqualification list.]

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where

3 child abuse or neglect has been alleged;

4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;

6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols
14 developed by the division shall give priority to ensuring the well-being and safety
15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

19 3. Upon receipt of a report, the division shall determine if the report
20 merits investigation, including reports which if true would constitute a suspected
21 violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or
22 565.050, RSMo, if the victim is a child less than eighteen years of age, section
23 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age,
24 or other crimes under chapter 566, RSMo, if the victim is a child less than
25 eighteen years of age and the perpetrator is twenty-one years of age or older,
26 section 567.050, RSMo, if the victim is a child less than eighteen years of age,
27 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo,
28 section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any
29 such crimes. The division shall immediately communicate all reports that merit
30 investigation to its appropriate local office and any relevant information as may
31 be contained in the information system. The local division staff shall determine,
32 through the use of protocols developed by the division, whether an investigation
33 or the family assessment and services approach should be used to respond to the
34 allegation. The protocols developed by the division shall give priority to ensuring
35 the well-being and safety of the child.

36 4. The local office shall contact the appropriate law enforcement agency
37 immediately upon receipt of a report which division personnel determine merits
38 an investigation and provide such agency with a detailed description of the report

39 received. In such cases the local division office shall request the assistance of the
40 local law enforcement agency in all aspects of the investigation of the
41 complaint. The appropriate law enforcement agency shall either assist the
42 division in the investigation or provide the division, within twenty-four hours, an
43 explanation in writing detailing the reasons why it is unable to assist.

44 5. The local office of the division shall cause an investigation or family
45 assessment and services approach to be initiated in accordance with the protocols
46 established in subsection 2 of this section, except in cases where the sole basis for
47 the report is educational neglect. If the report indicates that educational neglect
48 is the only complaint and there is no suspicion of other neglect or abuse, the
49 investigation shall be initiated within seventy-two hours of receipt of the report. If
50 the report indicates the child is in danger of serious physical harm or threat to
51 life, an investigation shall include direct observation of the subject child within
52 twenty-four hours of the receipt of the report. Local law enforcement shall take
53 all necessary steps to facilitate such direct observation. If the parents of the
54 child are not the alleged abusers, a parent of the child must be notified prior to
55 the child being interviewed by the division. If the abuse is alleged to have
56 occurred in a school or child-care facility the division shall not meet with the
57 child in any school building or child-care facility building where abuse of such
58 child is alleged to have occurred. When the child is reported absent from the
59 residence, the location and the well-being of the child shall be verified. For
60 purposes of this subsection, "child-care facility" shall have the same meaning as
61 such term is defined in section 210.201.

62 6. The director of the division shall name at least one chief investigator
63 for each local division office, who shall direct the division response on any case
64 involving a second or subsequent incident regarding the same subject child or
65 perpetrator. The duties of a chief investigator shall include verification of direct
66 observation of the subject child by the division and shall ensure information
67 regarding the status of an investigation is provided to the public school district
68 liaison. The public school district liaison shall develop protocol in conjunction
69 with the chief investigator to ensure information regarding an investigation is
70 shared with appropriate school personnel. The superintendent of each school
71 district shall designate a specific person or persons to act as the public school
72 district liaison. Should the subject child attend a nonpublic school the chief
73 investigator shall notify the school principal of the investigation. Upon
74 notification of an investigation, all information received by the public school

75 district liaison or the school shall be subject to the provisions of the federal
76 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
77 and federal rule 34 C.F.R., Part 99.

78 7. The investigation shall include but not be limited to the nature, extent,
79 and cause of the abuse or neglect; the identity and age of the person responsible
80 for the abuse or neglect; the names and conditions of other children in the home,
81 if any; the home environment and the relationship of the subject child to the
82 parents or other persons responsible for the child's care; any indication of
83 incidents of physical violence against any other household or family member; and
84 other pertinent data.

85 8. When a report has been made by a person required to report under
86 section 210.115, the division shall contact the person who made such report
87 within forty-eight hours of the receipt of the report in order to ensure that full
88 information has been received and to obtain any additional information or
89 medical records, or both, that may be pertinent.

90 9. Upon completion of the investigation, if the division suspects that the
91 report was made maliciously or for the purpose of harassment, the division shall
92 refer the report and any evidence of malice or harassment to the local prosecuting
93 or circuit attorney.

94 10. Multidisciplinary teams shall be used whenever conducting the
95 investigation as determined by the division in conjunction with local law
96 enforcement. Multidisciplinary teams shall be used in providing protective or
97 preventive social services, including the services of law enforcement, a liaison of
98 the local public school, the juvenile officer, the juvenile court, and other agencies,
99 both public and private.

100 11. For all family support team meetings involving an alleged victim of
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,
102 the legal guardian or custodian of the child, the guardian ad litem for the child,
103 and the volunteer advocate for the child shall be provided notice and be permitted
104 to attend all such meetings. Family members, other than alleged perpetrators,
105 or other community informal or formal service providers that provide significant
106 support to the child and other individuals may also be invited at the discretion
107 of the parents of the child. In addition, the parents, the legal counsel for the
108 parents, the legal guardian or custodian and the foster parents may request that
109 other individuals, other than alleged perpetrators, be permitted to attend such
110 team meetings. Once a person is provided notice of or attends such team

111 meetings, the division or the convenor of the meeting shall provide such persons
112 with notice of all such subsequent meetings involving the child. Families may
113 determine whether individuals invited at their discretion shall continue to be
114 invited.

115 12. If the appropriate local division personnel determine after an
116 investigation has begun that completing an investigation is not appropriate, the
117 division shall conduct a family assessment and services approach. The division
118 shall provide written notification to local law enforcement prior to terminating
119 any investigative process. The reason for the termination of the investigative
120 process shall be documented in the record of the division and the written
121 notification submitted to local law enforcement. Such notification shall not
122 preclude nor prevent any investigation by law enforcement.

123 13. If the appropriate local division personnel determines to use a family
124 assessment and services approach, the division shall:

125 (1) Assess any service needs of the family. The assessment of risk and
126 service needs shall be based on information gathered from the family and other
127 sources;

128 (2) Provide services which are voluntary and time-limited unless it is
129 determined by the division based on the assessment of risk that there will be a
130 high risk of abuse or neglect if the family refuses to accept the services. The
131 division shall identify services for families where it is determined that the child
132 is at high risk of future abuse or neglect. The division shall thoroughly document
133 in the record its attempt to provide voluntary services and the reasons these
134 services are important to reduce the risk of future abuse or neglect to the child.
135 If the family continues to refuse voluntary services or the child needs to be
136 protected, the division may commence an investigation;

137 (3) Commence an immediate investigation if at any time during the family
138 assessment and services approach the division determines that an investigation,
139 as delineated in sections 210.109 to 210.183, is required. The division staff who
140 have conducted the assessment may remain involved in the provision of services
141 to the child and family;

142 (4) Document at the time the case is closed, the outcome of the family
143 assessment and services approach, any service provided and the removal of risk
144 to the child, if it existed.

145 14. Within thirty days of an oral report of abuse or neglect, the local office
146 shall update the information in the information system. The information system

147 shall contain, at a minimum, the determination made by the division as a result
148 of the investigation, identifying information on the subjects of the report, those
149 responsible for the care of the subject child and other relevant dispositional
150 information. The division shall complete all investigations within thirty days,
151 unless good cause for the failure to complete the investigation is documented in
152 the information system. **If during a pending investigation, a death of a**
153 **child involved in the investigation occurs, the investigation may remain**
154 **open until the division's investigation surrounding the death is**
155 **completed.** If the investigation is not completed within thirty days, the
156 information system shall be updated at regular intervals and upon the completion
157 of the investigation. The information in the information system shall be updated
158 to reflect any subsequent findings, including any changes to the findings based
159 on an administrative or judicial hearing on the matter.

160 15. A person required to report under section 210.115 to the division and
161 any person making a report of child abuse or neglect made to the division which
162 is not made anonymously shall be informed by the division of his or her right to
163 obtain information concerning the disposition of his or her report. Such person
164 shall receive, from the local office, if requested, information on the general
165 disposition of his or her report. Such person may receive, if requested, findings
166 and information concerning the case. Such release of information shall be at the
167 discretion of the director based upon a review of the reporter's ability to assist in
168 protecting the child or the potential harm to the child or other children within the
169 family. The local office shall respond to the request within forty-five days. The
170 findings shall be made available to the reporter within five days of the outcome
171 of the investigation. If the report is determined to be unsubstantiated, the
172 reporter may request that the report be referred by the division to the office of
173 child advocate for children's protection and services established in sections 37.700
174 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
175 shall refer an unsubstantiated report of child abuse or neglect to the office of
176 child advocate for children's protection and services.

177 16. In any judicial proceeding involving the custody of a child the fact that
178 a report may have been made pursuant to sections 210.109 to 210.183 shall not
179 be admissible. However:

180 (1) Nothing in this subsection shall prohibit the introduction of evidence
181 from independent sources to support the allegations that may have caused a
182 report to have been made; and

183 (2) The court may on its own motion, or shall if requested by a party to
184 the proceeding, make an inquiry not on the record with the children's division to
185 determine if such a report has been made. If a report has been made, the court
186 may stay the custody proceeding until the children's division completes its
187 investigation.

188 17. In any judicial proceeding involving the custody of a child where the
189 court determines that the child is in need of services pursuant to subdivision (d)
190 of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's
191 parent, guardian or custodian shall not be entered into the registry.

192 18. The children's division is hereby granted the authority to promulgate
193 rules and regulations pursuant to the provisions of section 207.021, RSMo, and
194 chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

195 19. Any rule or portion of a rule, as that term is defined in section
196 536.010, RSMo, that is created under the authority delegated in this section shall
197 become effective only if it complies with and is subject to all of the provisions of
198 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
199 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
200 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
201 date or to disapprove and annul a rule are subsequently held unconstitutional,
202 then the grant of rulemaking authority and any rule proposed or adopted after
203 August 28, 2000, shall be invalid and void.

 210.183. 1. At the time of the initial investigation of a report of child
2 abuse or neglect, the division employee conducting the investigation shall provide
3 the alleged perpetrator with a written description of the investigation
4 process. Such written notice shall be given substantially in the following form:

5 "The investigation is being undertaken by the Children's Division pursuant
6 to the requirements of chapter 210 of the Revised Missouri Statutes in response
7 to a report of child abuse or neglect.

8 The identity of the person who reported the incident of abuse or neglect
9 is confidential and may not even be known to the Division since the report could
10 have been made anonymously.

11 This investigation is required by law to be conducted in order to enable the
12 Children's Division to identify incidents of abuse or neglect in order to provide
13 protective or preventive social services to families who are in need of such
14 services.

15 The division shall make every reasonable attempt to complete the

16 investigation within thirty days, **except if during a pending investigation**
17 **a death of a child involved in the investigation occurs, the investigation**
18 **may remain open until the division's investigation surrounding the**
19 **death is completed. Otherwise,** within ninety days you will receive a letter
20 from the Division which will inform you of one of the following:

21 (1) That the Division has found insufficient evidence of abuse or neglect;
22 or

23 (2) That there appears to be by a preponderance of the evidence reason
24 to suspect the existence of child abuse or neglect in the judgment of the Division
25 and that the Division will contact the family to offer social services.

26 If the Division finds by a preponderance of the evidence reason to believe
27 child abuse or neglect has occurred or the case is substantiated by court
28 adjudication, a record of the report and information gathered during the
29 investigation will remain on file with the Division.

30 If you disagree with the determination of the Division and feel that there
31 is insufficient reason to believe by a preponderance of the evidence that abuse or
32 neglect has occurred, you have a right to request an administrative review at
33 which time you may hire an attorney to represent you. If you request an
34 administrative review on the issue, you will be notified of the date and time of
35 your administrative review hearing by the child abuse and neglect review board.
36 If the Division's decision is reversed by the child abuse and neglect review board,
37 the Division records concerning the report and investigation will be updated to
38 reflect such finding. If the child abuse and neglect review board upholds the
39 Division's decision, an appeal may be filed in circuit court within sixty days of the
40 child abuse and neglect review board's decision."

41 2. If the division uses the family assessment approach, the division shall
42 at the time of the initial contact provide the parent of the child with the following
43 information:

44 (1) The purpose of the contact with the family;

45 (2) The name of the person responding and his or her office telephone
46 number;

47 (3) The assessment process to be followed during the division's
48 intervention with the family including the possible services available and
49 expectations of the family.

210.482. 1. If the emergency placement of a child in a private home is
2 necessary due to the unexpected absence of the child's parents, legal guardian,

3 or custodian, the juvenile court or children's division:

4 (1) May request that a local or state law enforcement agency or juvenile
5 officer, subject to any required federal authorization, immediately conduct a
6 name-based criminal history record check to include full orders of protection and
7 outstanding warrants of each person over the age of seventeen residing in the
8 home by using the Missouri uniform law enforcement system (MULES) and the
9 National Crime Information Center to access the Interstate Identification Index
10 maintained by the Federal Bureau of Investigation; and

11 (2) Shall determine or, in the case of the juvenile court, shall request the
12 division to determine whether any person over the age of seventeen years residing
13 in the home is listed on the child abuse and neglect registry.

14 For any children less than seventeen years of age residing in the home, the
15 children's division shall inquire of the person with whom an emergency placement
16 of a child will be made whether any children less than seventeen years of age
17 residing in the home have ever been certified as an adult and convicted of or pled
18 guilty or nolo contendere to any crime.

19 2. If a name-based search has been conducted pursuant to subsection 1
20 of this section, within fifteen **[business] calendar** days after the emergency
21 placement of the child in the private home, and if the private home has not
22 previously been approved as a foster or adoptive home, all persons over the age
23 of seventeen residing in the home and all children less than seventeen residing
24 in the home who the division has determined have been certified as an adult for
25 the commission of a crime, **[other than persons within the second degree of**
26 **consanguinity and affinity to the child,]** shall report to a local law enforcement
27 agency for the purpose of providing two sets of fingerprints each and
28 accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints
29 shall be used by the highway patrol to search the criminal history repository and
30 the second set shall be forwarded to the Federal Bureau of Investigation for
31 searching the federal criminal history files. Results of the checks will be provided
32 to the juvenile court or children's division office requesting such
33 information. Any child placed in emergency placement in a private home shall
34 be removed immediately if any person residing in the home fails to provide
35 fingerprints after being requested to do so, unless the person refusing to provide
36 fingerprints ceases to reside in the private home.

37 3. If the placement of a child is denied as a result of a name-based
38 criminal history check and the denial is contested, all persons over the age of

39 seventeen residing in the home and all children less than seventeen years of age
40 residing in the home who the division has determined have been certified as an
41 adult for the commission of a crime shall, within fifteen **[business] calendar**
42 days, submit to the juvenile court or the children's division two sets of
43 fingerprints in the same manner described in subsection 2 of this section,
44 accompanying fees, and written permission authorizing the juvenile court or the
45 children's division to forward the fingerprints to the state criminal record
46 repository for submission to the Federal Bureau of Investigation. One set of
47 fingerprints shall be used by the highway patrol to search the criminal history
48 repository and the second set shall be forwarded to the Federal Bureau of
49 Investigation for searching the federal criminal history files.

50 4. Subject to appropriation, the total cost of fingerprinting required by
51 this section may be paid by the state, including reimbursement of persons
52 incurring fingerprinting costs under this section.

53 5. For the purposes of this section, "emergency placement" refers to those
54 limited instances when the juvenile court or children's division is placing a child
55 in the home of private individuals, including neighbors, friends, or relatives, as
56 a result of a sudden unavailability of the child's primary caretaker.

210.565. 1. Whenever a child is placed in a foster home and the court has
2 determined pursuant to subsection 3 of this section that foster home placement
3 with relatives is not contrary to the best interest of the child, the children's
4 division shall give foster home placement to relatives of the
5 child. Notwithstanding any rule of the division to the contrary, grandparents
6 who request consideration shall be given preference and first consideration for
7 foster home placement. **Preference for placement with relatives shall not**
8 **apply when the parent has consented in writing to the termination of**
9 **his or her parental rights in conjunction with a placement with a**
10 **licensed child placing agency under subsection 6 of section 453.010,**
11 **RSMo.**

12 2. As used in this section, the term "relative" means a person related to
13 another by blood or affinity within the third degree. The status of a grandparent
14 shall not be affected by the death or the dissolution of the marriage of a son or
15 daughter.

16 3. The preference for placement with relatives created by this section
17 shall only apply where the court finds that placement with such relatives is not
18 contrary to the best interest of the child considering all circumstances. If the

19 court finds that it is contrary to the best interest of a child to be placed with
20 relatives, the court shall make specific findings on the record detailing the
21 reasons why the best interests of the child necessitate placement of the child with
22 persons other than relatives.

23 4. The age of the child's relative shall not be the only factor that the
24 children's division takes into consideration when it makes placement decisions
25 and recommendations to the court about placing the child with such relative.

26 5. For any Native American child placed in protective custody, the
27 children's division shall comply with the placement requirements set forth in 25
28 U.S.C. Section 1915.

**210.570. This interstate compact for juveniles is entered with all
2 jurisdictions legally joining the compact in the form substantially as
3 follows:**

4 THE INTERSTATE COMPACT FOR JUVENILES

5 ARTICLE I

6 PURPOSE

7 **The compacting states to this Interstate Compact recognize that**
8 **each state is responsible for the proper supervision or return of**
9 **juveniles, delinquents and status offenders who are on probation or**
10 **parole and who have absconded, escaped or run away from supervision**
11 **and control and in so doing have endangered their own safety and the**
12 **safety of others. The compacting states also recognize that each state**
13 **is responsible for the safe return of juveniles who have run away from**
14 **home and in doing so have left their state of residence. The compacting**
15 **states also recognize that Congress, by enacting the Crime Control Act,**
16 **4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for**
17 **cooperative efforts and mutual assistance in the prevention of crime.**

18 **It is the purpose of this compact, through means of joint and**
19 **cooperative action among the compacting states to: (A) ensure that the**
20 **adjudicated juveniles and status offenders subject to this compact are**
21 **provided adequate supervision and services in the receiving state as**
22 **ordered by the adjudicating judge or parole authority in the sending**
23 **state; (B) ensure that the public safety interests of the citizens,**
24 **including the victims of juvenile offenders, in both the sending and**
25 **receiving states are adequately protected; (C) return juveniles who**
26 **have run away, absconded or escaped from supervision or control or**
27 **have been accused of an offense to the state requesting their return; (D)**

28 make contracts for the cooperative institutionalization in public
29 facilities in member states for delinquent youth needing special
30 services; (E) provide for the effective tracking and supervision of
31 juveniles; (F) equitably allocate the costs, benefits and obligations of
32 the compacting states; (G) establish procedures to manage the
33 movement between states of juvenile offenders released to the
34 community under the jurisdiction of courts, juvenile departments, or
35 any other criminal or juvenile justice agency which has jurisdiction
36 over juvenile offenders; (H) insure immediate notice to jurisdictions
37 where defined offenders are authorized to travel or to relocate across
38 state lines; (I) establish procedures to resolve pending charges
39 (detainers) against juvenile offenders prior to transfer or release to the
40 community under the terms of this compact; (J) establish a system of
41 uniform data collection on information pertaining to juveniles subject
42 to this compact that allows access by authorized juvenile justice and
43 criminal justice officials, and regular reporting of Compact activities
44 to heads of state executive, judicial, and legislative branches and
45 juvenile and criminal justice administrators; (K) monitor compliance
46 with rules governing interstate movement of juveniles and initiate
47 interventions to address and correct non-compliance; (L) coordinate
48 training and education regarding the regulation of interstate movement
49 of juveniles for officials involved in such activity; and (M) coordinate
50 the implementation and operation of the compact with the Interstate
51 Compact for the Placement of Children, the Interstate Compact for
52 Adult Offender Supervision and other compacts affecting juveniles
53 particularly in those cases where concurrent or overlapping
54 supervision issues arise. It is the policy of the compacting states that
55 the activities conducted by the Interstate Commission created herein
56 are the formation of public policies and therefore are public
57 business. Furthermore, the compacting states shall cooperate and
58 observe their individual and collective duties and responsibilities for
59 the prompt return and acceptance of juveniles subject to the provisions
60 of this compact. The provisions of this compact shall be reasonably and
61 liberally construed to accomplish the purposes and policies of the
62 compact.

63 ARTICLE II

64 DEFINITIONS

65 As used in this compact, unless the context clearly requires a
66 different construction:

67 A. "Bylaws" means: those bylaws established by the Interstate
68 Commission for its governance, or for directing or controlling its
69 actions or conduct.

70 B. "Compact Administrator" means: the individual in each
71 compacting state appointed pursuant to the terms of this compact,
72 responsible for the administration and management of the state's
73 supervision and transfer of juveniles subject to the terms of this
74 compact, the rules adopted by the Interstate Commission and policies
75 adopted by the State Council under this compact.

76 C. "Compacting State" means: any state which has enacted the
77 enabling legislation for this compact.

78 D. "Commissioner" means: the voting representative of each
79 compacting state appointed pursuant to Article III of this compact.

80 E. "Court" means: any court having jurisdiction over delinquent,
81 neglected, or dependent children.

82 F. "Deputy Compact Administrator" means: the individual, if any,
83 in each compacting state appointed to act on behalf of a Compact
84 Administrator pursuant to the terms of this compact responsible for the
85 administration and management of the state's supervision and transfer
86 of juveniles subject to the terms of this compact, the rules adopted by
87 the Interstate Commission and policies adopted by the State Council
88 under this compact.

89 G. "Interstate Commission" means: the Interstate Commission for
90 Juveniles created by Article III of this compact.

91 H. "Juvenile" means: any person defined as a juvenile in any
92 member state or by the rules of the Interstate Commission, including:

93 (1) Accused Delinquent - a person charged with an offense that,
94 if committed by an adult, would be a criminal offense;

95 (2) Adjudicated Delinquent - a person found to have committed
96 an offense that, if committed by an adult, would be a criminal offense;

97 (3) Accused Status Offender - a person charged with an offense
98 that would not be a criminal offense if committed by an adult;

99 (4) Adjudicated Status Offender - a person found to have
100 committed an offense that would not be a criminal offense if committed
101 by an adult; and

102 **(5) Non-Offender** - a person in need of supervision who has not
103 **been accused or adjudicated a status offender or delinquent.**

104 I. "Non-Compacting state" means: any state which has not enacted
105 the enabling legislation for this compact.

106 J. "Probation or Parole" means: any kind of supervision or
107 conditional release of juveniles authorized under the laws of the
108 compacting states.

109 K. "Rule" means: a written statement by the Interstate
110 Commission promulgated pursuant to Article VI of this compact that is
111 of general applicability, implements, interprets or prescribes a policy
112 or provision of the Compact, or an organizational, procedural, or
113 practice requirement of the commission, and has the force and effect
114 of statutory law in a compacting state, and includes the amendment,
115 repeal, or suspension of an existing rule.

116 L. "State" means: a state of the United States, the District of
117 Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S.
118 Virgin Islands, Guam, American Samoa, and the Northern Marianas
119 Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

122 A. The compacting states hereby create the "Interstate
123 Commission for Juveniles." The commission shall be a body corporate
124 and joint agency of the compacting states. The commission shall have
125 all the responsibilities, powers and duties set forth herein, and such
126 additional powers as may be conferred upon it by subsequent action of
127 the respective legislatures of the compacting states in accordance with
128 the terms of this compact.

129 B. The Interstate Commission shall consist of commissioners
130 appointed by the appropriate appointing authority in each state
131 pursuant to the rules and requirements of each compacting state and
132 in consultation with the State Council for Interstate Juvenile
133 Supervision created hereunder. The commissioner shall be the compact
134 administrator, deputy compact administrator or designee from that
135 state who shall serve on the Interstate Commission in such capacity
136 under or pursuant to the applicable law of the compacting state.

137 C. In addition to the commissioners who are the voting
138 representatives of each state, the Interstate Commission shall include

139 individuals who are not commissioners, but who are members of
140 interested organizations. Such non-commissioner members must
141 include a member of the national organizations of governors,
142 legislators, state chief justices, attorneys general, Interstate Compact
143 for Adult Offender Supervision, Interstate Compact for the Placement
144 of Children, juvenile justice and juvenile corrections officials, and
145 crime victims. All non-commissioner members of the Interstate
146 Commission shall be ex-officio (non-voting) members. The Interstate
147 Commission may provide in its bylaws for such additional ex-officio
148 (non-voting) members, including members of other national
149 organizations, in such numbers as shall be determined by the
150 commission.

151 D. Each compacting state represented at any meeting of the
152 commission is entitled to one vote. A majority of the compacting states
153 shall constitute a quorum for the transaction of business, unless a
154 larger quorum is required by the bylaws of the Interstate Commission.

155 E. The commission shall meet at least once each calendar
156 year. The chairperson may call additional meetings and, upon the
157 request of a simple majority of the compacting states, shall call
158 additional meetings. Public notice shall be given of all meetings and
159 meetings shall be open to the public.

160 F. The Interstate Commission shall establish an executive
161 committee, which shall include commission officers, members, and
162 others as determined by the bylaws. The executive committee shall
163 have the power to act on behalf of the Interstate Commission during
164 periods when the Interstate Commission is not in session, with the
165 exception of rulemaking and/or amendment to the compact. The
166 executive committee shall oversee the day-to-day activities of the
167 administration of the compact managed by an executive director and
168 Interstate Commission staff; administers enforcement and compliance
169 with the provisions of the compact, its bylaws and rules, and performs
170 such other duties as directed by the Interstate Commission or set forth
171 in the bylaws.

172 G. Each member of the Interstate Commission shall have the
173 right and power to cast a vote to which that compacting state is
174 entitled and to participate in the business and affairs of the Interstate
175 Commission. A member shall vote in person and shall not delegate a

176 vote to another compacting state. However, a commissioner, in
177 consultation with the state council, shall appoint another authorized
178 representative, in the absence of the commissioner from that state, to
179 cast a vote on behalf of the compacting state at a specified
180 meeting. The bylaws may provide for members' participation in
181 meetings by telephone or other means of telecommunication or
182 electronic communication.

183 H. The Interstate Commission's bylaws shall establish conditions
184 and procedures under which the Interstate Commission shall make its
185 information and official records available to the public for inspection
186 or copying. The Interstate Commission may exempt from disclosure
187 any information or official records to the extent they would adversely
188 affect personal privacy rights or proprietary interests.

189 I. Public notice shall be given of all meetings and all meetings
190 shall be open to the public, except as set forth in the Rules or as
191 otherwise provided in the Compact. The Interstate Commission and
192 any of its committees may close a meeting to the public where it
193 determines by two-thirds vote that an open meeting would be likely to:

194 1. Relate solely to the Interstate Commission's internal personnel
195 practices and procedures;

196 2. Disclose matters specifically exempted from disclosure by
197 statute;

198 3. Disclose trade secrets or commercial or financial information
199 which is privileged or confidential;

200 4. Involve accusing any person of a crime, or formally censuring
201 any person;

202 5. Disclose information of a personal nature where disclosure
203 would constitute a clearly unwarranted invasion of personal privacy;

204 6. Disclose investigative records compiled for law enforcement
205 purposes;

206 7. Disclose information contained in or related to examination,
207 operating or condition reports prepared by, or on behalf of or for the
208 use of, the Interstate Commission with respect to a regulated person or
209 entity for the purpose of regulation or supervision of such person or
210 entity;

211 8. Disclose information, the premature disclosure of which would
212 significantly endanger the stability of a regulated person or entity; or

213 **9. Specifically relate to the Interstate Commission's issuance of**
214 **a subpoena, or its participation in a civil action or other legal**
215 **proceeding.**

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

227 K. The Interstate Commission shall collect standardized data
228 concerning the interstate movement of juveniles as directed through its
229 rules which shall specify the data to be collected, the means of
230 collection and data exchange and reporting requirements. Such
231 methods of data collection, exchange and reporting shall insofar as is
232 reasonably possible conform to up-to-date technology and coordinate
233 its information functions with the appropriate repository of records.

234 ARTICLE IV

235 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

236 **The commission shall have the following powers and duties:**

- 237 1. To provide for dispute resolution among compacting states.
238 2. To promulgate rules to effect the purposes and obligations as
239 enumerated in this compact, which shall have the force and effect of
240 statutory law and shall be binding in the compacting states to the
241 extent and in the manner provided in this compact.
242 3. To oversee, supervise and coordinate the interstate movement
243 of juveniles subject to the terms of this compact and any bylaws
244 adopted and rules promulgated by the Interstate Commission.
245 4. To enforce compliance with the compact provisions, the rules
246 promulgated by the Interstate Commission, and the bylaws, using all
247 necessary and proper means, including but not limited to the use of
248 judicial process.
249 5. To establish and maintain offices which shall be located within

250 one or more of the compacting states.

251 6. To purchase and maintain insurance and bonds.

252 7. To borrow, accept, hire or contract for services of personnel.

253 8. To establish and appoint committees and hire staff which it
254 deems necessary for the carrying out of its functions including, but not
255 limited to, an executive committee as required by Article III which
256 shall have the power to act on behalf of the Interstate Commission in
257 carrying out its powers and duties hereunder.

258 9. To elect or appoint such officers, attorneys, employees, agents,
259 or consultants, and to fix their compensation, define their duties and
260 determine their qualifications; and to establish the Interstate
261 Commission's personnel policies and programs relating to, inter alia,
262 conflicts of interest, rates of compensation, and qualifications of
263 personnel.

264 10. To accept any and all donations and grants of money,
265 equipment, supplies, materials, and services, and to receive, utilize, and
266 dispose of it.

267 11. To lease, purchase, accept contributions or donations of, or
268 otherwise to own, hold, improve or use any property, real, personal, or
269 mixed.

270 12. To sell, convey, mortgage, pledge, lease, exchange, abandon,
271 or otherwise dispose of any property, real, personal or mixed.

272 13. To establish a budget and make expenditures and levy dues
273 as provided in Article VIII of this compact.

274 14. To sue and be sued.

275 15. To adopt a seal and bylaws governing the management and
276 operation of the Interstate Commission.

277 16. To perform such functions as may be necessary or
278 appropriate to achieve the purposes of this compact.

279 17. To report annually to the legislatures, governors, judiciary,
280 and state councils of the compacting states concerning the activities of
281 the Interstate Commission during the preceding year. Such reports
282 shall also include any recommendations that may have been adopted by
283 the Interstate Commission.

284 18. To coordinate education, training and public awareness
285 regarding the interstate movement of juveniles for officials involved in
286 such activity.

287 19. To establish uniform standards of the reporting, collecting
288 and exchanging of data.

289 **20. The Interstate Commission shall maintain its corporate books**
290 **and records in accordance with the Bylaws.**

291 ARTICLE V

292 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

293 Section A. Bylaws

294 **1. The Interstate Commission shall, by a majority of the members**
295 **present and voting, within twelve months after the first Interstate**
296 **Commission meeting, adopt bylaws to govern its conduct as may be**
297 **necessary or appropriate to carry out the purposes of the compact,**
298 **including, but not limited to:**

299 a. Establishing the fiscal year of the Interstate Commission;

300 b. Establishing an executive committee and such other
301 committees as may be necessary;

302 c. Provide for the establishment of committees governing any
303 general or specific delegation of any authority or function of the
304 Interstate Commission;

305 **d. Providing reasonable procedures for calling and conducting**
306 **meetings of the Interstate Commission, and ensuring reasonable notice**
307 **of each such meeting;**

308 e. Establishing the titles and responsibilities of the officers of
309 the Interstate Commission;

310 f. Providing a mechanism for concluding the operations of the
311 Interstate Commission and the return of any surplus funds that may
312 exist upon the termination of the Compact after the payment and/or
313 reserving of all of its debts and obligations;

314 g. Providing "start-up" rules for initial administration of the
315 compact; and

316 **h. Establishing standards and procedures for compliance and**
317 **technical assistance in carrying out the compact.**

318 **Section B. Officers and Staff**

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside

324 at all meetings of the Interstate Commission. The officers so elected
325 shall serve without compensation or remuneration from the Interstate
326 Commission; provided that, subject to the availability of budgeted
327 funds, the officers shall be reimbursed for any ordinary and necessary
328 costs and expenses incurred by them in the performance of their duties
329 and responsibilities as officers of the Interstate Commission.

330 2. The Interstate Commission shall, through its executive
331 committee, appoint or retain an executive director for such period,
332 upon such terms and conditions and for such compensation as the
333 Interstate Commission may deem appropriate. The executive director
334 shall serve as secretary to the Interstate Commission, but shall not be
335 a Member and shall hire and supervise such other staff as may be
336 authorized by the Interstate Commission.

337 Section C. Qualified Immunity, Defense and Indemnification

338 1. The commission's executive director and employees shall be
339 immune from suit and liability, either personally or in their official
340 capacity, for any claim for damage to or loss of property or personal
341 injury or other civil liability caused or arising out of or relating to any
342 actual or alleged act, error, or omission that occurred, or that such
343 person had a reasonable basis for believing occurred within the scope
344 of commission employment, duties, or responsibilities; provided, that
345 any such person shall not be protected from suit or liability for any
346 damage, loss, injury, or liability caused by the intentional or willful and
347 wanton misconduct of any such person.

348 2. The liability of any commissioner, or the employee or agent of
349 a commissioner, acting within the scope of such person's employment
350 or duties for acts, errors, or omissions occurring within such person's
351 state may not exceed the limits of liability set forth under the
352 Constitution and laws of that state for state officials, employees, and
353 agents. Nothing in this subsection shall be construed to protect any
354 such person from suit or liability for any damage, loss, injury, or
355 liability caused by the intentional or willful and wanton misconduct of
356 any such person.

357 3. The Interstate Commission shall defend the executive director
358 or the employees or representatives of the Interstate Commission and,
359 subject to the approval of the Attorney General of the state represented
360 by any commissioner of a compacting state, shall defend such

361 commissioner or the commissioner's representatives or employees in
362 any civil action seeking to impose liability arising out of any actual or
363 alleged act, error or omission that occurred within the scope of
364 Interstate Commission employment, duties or responsibilities, or that
365 the defendant had a reasonable basis for believing occurred within the
366 scope of Interstate Commission employment, duties, or responsibilities,
367 provided that the actual or alleged act, error, or omission did not result
368 from intentional or willful and wanton misconduct on the part of such
369 person.

370 4. The Interstate Commission shall indemnify and hold the
371 commissioner of a compacting state, or the commissioner's
372 representatives or employees, or the Interstate Commission's
373 representatives or employees, harmless in the amount of any settlement
374 or judgment obtained against such persons arising out of any actual or
375 alleged act, error, or omission that occurred within the scope of
376 Interstate Commission employment, duties, or responsibilities, or that
377 such persons had a reasonable basis for believing occurred within the
378 scope of Interstate Commission employment, duties, or responsibilities,
379 provided that the actual or alleged act, error, or omission did not result
380 from intentional or willful and wanton misconduct on the part of such
381 persons.

382 ARTICLE VI

383 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

384 A. The Interstate Commission shall promulgate and publish rules
385 in order to effectively and efficiently achieve the purposes of the
386 compact.

387 B. Rulemaking shall occur pursuant to the criteria set forth in
388 this article and the bylaws and rules adopted pursuant thereto. Such
389 rulemaking shall substantially conform to the principles of the "Model
390 State Administrative Procedures Act," 1981 Act, Uniform Laws
391 Annotated, Vol. 15, p.1 (2000), or such other administrative procedures
392 act, as the Interstate Commission deems appropriate consistent with
393 due process requirements under the U.S. Constitution as now or
394 hereafter interpreted by the U.S. Supreme Court. All rules and
395 amendments shall become binding as of the date specified, as published
396 with the final version of the rule as approved by the commission.

397 C. When promulgating a rule, the Interstate Commission shall,

398 at a minimum:

399 1. publish the proposed rule's entire text stating the reason(s) for
400 that proposed rule;

401 2. allow and invite any and all persons to submit written data,
402 facts, opinions and arguments, which information shall be added to the
403 record, and be made publicly available;

404 3. provide an opportunity for an informal hearing if petitioned
405 by ten (10) or more persons; and

406 4. promulgate a final rule and its effective date, if appropriate,
407 based on input from state or local officials, or interested parties.

408 D. Allow, not later than sixty days after a rule is promulgated,
409 any interested person to file a petition in the United States District
410 Court for the District of Columbia or in the Federal District Court
411 where the Interstate Commission's principal office is located for
412 judicial review of such rule. If the court finds that the Interstate
413 Commission's action is not supported by substantial evidence in the
414 rulemaking record, the court shall hold the rule unlawful and set it
415 aside. For purposes of this subsection, evidence is substantial if it
416 would be considered substantial evidence under the Model State
417 Administrative Procedures Act.

418 E. If a majority of the legislatures of the compacting states
419 rejects a rule, those states may, by enactment of a statute or resolution
420 in the same manner used to adopt the compact, cause that such rule
421 shall have no further force and effect in any compacting state.

422 F. The existing rules governing the operation of the Interstate
423 Compact on Juveniles superseded by this act shall be null and void
424 twelve (12) months after the first meeting of the Interstate Commission
425 created hereunder.

426 G. Upon determination by the Interstate Commission that a state-
427 of-emergency exists, it may promulgate an emergency rule which shall
428 become effective immediately upon adoption, provided that the usual
429 rulemaking procedures provided hereunder shall be retroactively
430 applied to said rule as soon as reasonably possible, but no later than
431 ninety (90) days after the effective date of the emergency rule.

432 ARTICLE VII

433 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

434 BY THE INTERSTATE COMMISSION

435 **Section A. Oversight**

436 1. The Interstate Commission shall oversee the administration
437 and operations of the interstate movement of juveniles subject to this
438 compact in the compacting states and shall monitor such activities
439 being administered in non-compacting states which may significantly
440 affect compacting states.

441 2. The courts and executive agencies in each compacting state
442 shall enforce this compact and shall take all actions necessary and
443 appropriate to effectuate the compact's purposes and intent. The
444 provisions of this compact and the rules promulgated hereunder shall
445 be received by all the judges, public officers, commissions, and
446 departments of the state government as evidence of the authorized
447 statute and administrative rules. All courts shall take judicial notice
448 of the compact and the rules. In any judicial or administrative
449 proceeding in a compacting state pertaining to the subject matter of
450 this compact which may affect the powers, responsibilities or actions
451 of the Interstate Commission, it shall be entitled to receive all service
452 of process in any such proceeding, and shall have standing to intervene
453 in the proceeding for all purposes.

454 **Section B. Dispute Resolution**

455 1. The compacting states shall report to the Interstate
456 Commission on all issues and activities necessary for the
457 administration of the compact as well as issues and activities
458 pertaining to compliance with the provisions of the compact and its
459 bylaws and rules.

460 2. The Interstate Commission shall attempt, upon the request of
461 a compacting state, to resolve any disputes or other issues which are
462 subject to the compact and which may arise among compacting states
463 and between compacting and non-compacting states. The commission
464 shall promulgate a rule providing for both mediation and binding
465 dispute resolution for disputes among the compacting states.

466 3. The Interstate Commission, in the reasonable exercise of its
467 discretion, shall enforce the provisions and rules of this compact using
468 any or all means set forth in Article XI of this compact.

469 **ARTICLE VIII**

470 **FINANCE**

471 A. The Interstate Commission shall pay or provide for the

472 payment of the reasonable expenses of its establishment, organization
473 and ongoing activities.

474 B. The Interstate Commission shall levy on and collect an annual
475 assessment from each compacting state to cover the cost of the internal
476 operations and activities of the Interstate Commission and its staff
477 which must be in a total amount sufficient to cover the Interstate
478 Commission's annual budget as approved each year. The aggregate
479 annual assessment amount shall be allocated based upon a formula to
480 be determined by the Interstate Commission, taking into consideration
481 the population of each compacting state and the volume of interstate
482 movement of juveniles in each compacting state and shall promulgate
483 a rule binding upon all compacting states which governs said
484 assessment.

485 C. The Interstate Commission shall not incur any obligations of
486 any kind prior to securing the funds adequate to meet the same; nor
487 shall the Interstate Commission pledge the credit of any of the
488 compacting states, except by and with the authority of the compacting
489 state.

490 D. The Interstate Commission shall keep accurate accounts of all
491 receipts and disbursements. The receipts and disbursements of the
492 Interstate Commission shall be subject to the audit and accounting
493 procedures established under its bylaws. However, all receipts and
494 disbursements of funds handled by the Interstate Commission shall be
495 audited yearly by a certified or licensed public accountant and the
496 report of the audit shall be included in and become part of the annual
497 report of the Interstate Commission.

498 ARTICLE IX

499 THE STATE COUNCIL

500 Each member state shall create a State Council for Interstate
501 Juvenile Supervision. While each state may determine the membership
502 of its own state council, its membership must include at least one
503 representative from the legislative, judicial, and executive branches of
504 government, victims groups, and the compact administrator, deputy
505 compact administrator or designee. Each compacting state retains the
506 right to determine the qualifications of the compact administrator or
507 deputy compact administrator. Each state council will advise and may
508 exercise oversight and advocacy concerning that state's participation

509 in Interstate Commission activities and other duties as may be
510 determined by that state, including but not limited to, development of
511 policy concerning operations and procedures of the compact within
512 that state.

513 ARTICLE X

514 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

515 A. Any state, the District of Columbia (or its designee), the
516 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
517 Samoa, and the Northern Marianas Islands as defined in Article II of
518 this compact is eligible to become a compacting state.

519 B. The compact shall become effective and binding upon
520 legislative enactment of the compact into law by no less than 35 of the
521 states. The initial effective date shall be the later of July 1, 2004, or
522 upon enactment into law by the 35th jurisdiction. Thereafter, it shall
523 become effective and binding as to any other compacting state upon
524 enactment of the compact into law by that state. The governors of non-
525 member states or their designees shall be invited to participate in the
526 activities of the Interstate Commission on a non-voting basis prior to
527 adoption of the compact by all states and territories of the United
528 States.

529 C. The Interstate Commission may propose amendments to the
530 compact for enactment by the compacting states. No amendment shall
531 become effective and binding upon the Interstate Commission and the
532 compacting states unless and until it is enacted into law by unanimous
533 consent of the compacting states.

534 ARTICLE XI

535 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

536 Section A. Withdrawal

537 1. Once effective, the compact shall continue in force and remain
538 binding upon each and every compacting state; provided that a
539 compacting state may withdraw from the compact by specifically
540 repealing the statute which enacted the compact into law.

541 2. The effective date of withdrawal is the effective date of the
542 repeal.

543 3. The withdrawing state shall immediately notify the
544 chairperson of the Interstate Commission in writing upon the
545 introduction of legislation repealing this compact in the withdrawing

546 state. The Interstate Commission shall notify the other compacting
547 states of the withdrawing state's intent to withdraw within sixty days
548 of its receipt thereof.

549 4. The withdrawing state is responsible for all assessments,
550 obligations and liabilities incurred through the effective date of
551 withdrawal, including any obligations, the performance of which
552 extend beyond the effective date of withdrawal.

553 5. Reinstatement following withdrawal of any compacting state
554 shall occur upon the withdrawing state reenacting the compact or upon
555 such later date as determined by the Interstate Commission.

556 Section B. Technical Assistance, Fines, Suspension, Termination
557 and Default

558 1. If the Interstate Commission determines that any compacting
559 state has at any time defaulted in the performance of any of its
560 obligations or responsibilities under this compact, or the bylaws or
561 duly promulgated rules, the Interstate Commission may impose any or
562 all of the following penalties:

563 a. Remedial training and technical assistance as directed by the
564 Interstate Commission;

565 b. Alternative Dispute Resolution;

566 c. Fines, fees, and costs in such amounts as are deemed to be
567 reasonable as fixed by the Interstate Commission; and

568 d. Suspension or termination of membership in the compact,
569 which shall be imposed only after all other reasonable means of
570 securing compliance under the bylaws and rules have been exhausted
571 and the Interstate Commission has therefore determined that the
572 offending state is in default. Immediate notice of suspension shall be
573 given by the Interstate Commission to the Governor, the Chief Justice
574 or the Chief Judicial Officer of the state, the Majority and Minority
575 Leaders of the defaulting state's legislature, and the state council. The
576 grounds for default include, but are not limited to, failure of a
577 compacting state to perform such obligations or responsibilities
578 imposed upon it by this compact, the bylaws, or duly promulgated rules
579 and any other grounds designated in commission bylaws and rules. The
580 Interstate Commission shall immediately notify the defaulting state in
581 writing of the penalty imposed by the Interstate Commission and of the
582 default pending a cure of the default. The commission shall stipulate

583 the conditions and the time period within which the defaulting state
584 must cure its default. If the defaulting state fails to cure the default
585 within the time period specified by the commission, the defaulting state
586 shall be terminated from the compact upon an affirmative vote of a
587 majority of the compacting states and all rights, privileges and benefits
588 conferred by this compact shall be terminated from the effective date
589 of termination.

590 2. Within sixty days of the effective date of termination of a
591 defaulting state, the commission shall notify the Governor, the Chief
592 Justice or Chief Judicial Officer, the Majority and Minority Leaders of
593 the defaulting state's legislature, and the state council of such
594 termination.

595 3. The defaulting state is responsible for all assessments,
596 obligations and liabilities incurred through the effective date of
597 termination including any obligations, the performance of which
598 extends beyond the effective date of termination.

599 4. The Interstate Commission shall not bear any costs relating to
600 the defaulting state unless otherwise mutually agreed upon in writing
601 between the Interstate Commission and the defaulting state.

602 5. Reinstatement following termination of any compacting state
603 requires both a reenactment of the compact by the defaulting state and
604 the approval of the Interstate Commission pursuant to the rules.

605 Section C. Judicial Enforcement

606 The Interstate Commission may, by majority vote of the members,
607 initiate legal action in the United States District Court for the District
608 of Columbia or, at the discretion of the Interstate Commission, in the
609 federal district where the Interstate Commission has its offices, to
610 enforce compliance with the provisions of the compact, its duly
611 promulgated rules and bylaws, against any compacting state in default.
612 In the event judicial enforcement is necessary the prevailing party
613 shall be awarded all costs of such litigation including reasonable
614 attorneys fees.

615 Section D. Dissolution of Compact

616 1. The compact dissolves effective upon the date of the
617 withdrawal or default of the compacting state, which reduces
618 membership in the compact to one compacting state.

619 2. Upon the dissolution of this compact, the compact becomes

620 null and void and shall be of no further force or effect, and the business
621 and affairs of the Interstate Commission shall be concluded and any
622 surplus funds shall be distributed in accordance with the bylaws.

623 ARTICLE XII

624 SEVERABILITY AND CONSTRUCTION

625 A. The provisions of this compact shall be severable, and if any
626 phrase, clause, sentence or provision is deemed unenforceable, the
627 remaining provisions of the compact shall be enforceable.

628 B. The provisions of this compact shall be liberally construed to
629 effectuate its purposes.

630 ARTICLE XIII

631 BINDING EFFECT OF COMPACT AND OTHER LAWS

632 Section A. Other Laws

633 1. Nothing herein prevents the enforcement of any other law of
634 a compacting state that is not inconsistent with this compact.

635 2. All compacting states' laws other than state Constitutions and
636 other interstate compacts conflicting with this compact are superseded
637 to the extent of the conflict.

638 Section B. Binding Effect of the Compact

639 1. All lawful actions of the Interstate Commission, including all
640 rules and bylaws promulgated by the Interstate Commission, are
641 binding upon the compacting states.

642 2. All agreements between the Interstate Commission and the
643 compacting states are binding in accordance with their terms.

644 3. Upon the request of a party to a conflict over meaning or
645 interpretation of Interstate Commission actions, and upon a majority
646 vote of the compacting states, the Interstate Commission may issue
647 advisory opinions regarding such meaning or interpretation.

648 4. In the event any provision of this compact exceeds the
649 constitutional limits imposed on the legislature of any compacting
650 state, the obligations, duties, powers or jurisdiction sought to be
651 conferred by such provision upon the Interstate Commission shall be
652 ineffective and such obligations, duties, powers or jurisdiction shall
653 remain in the compacting state and shall be exercised by the agency
654 thereof to which such obligations, duties, powers or jurisdiction are
655 delegated by law in effect at the time this compact becomes effective.

210.580. The compact shall become effective and binding upon the state

2 of Missouri [when signed by the commissioners as herein provided and by the
3 proper authorities of any other state entering into the compact] **upon**
4 **legislative enactment of the compact into law by no less than thirty-five**
5 **of the states. The initial effective date shall be the later of August 28,**
6 **2006, or upon enactment into law by the thirty-fifth**
7 **jurisdiction. Thereafter it shall become effective and binding as to any**
8 **other compacting state upon enactment of the compact into law by that**
9 **state.**

210.762. 1. When a child is taken into custody by a juvenile officer or law
2 enforcement official under subdivision (1) of subsection 1 of section 211.031,
3 RSMo, and initially placed with the division, the division may make a temporary
4 placement and shall arrange for a family support team meeting prior to or within
5 twenty-four hours following the protective custody hearing held under section
6 211.032, RSMo. After a child is in the division's custody and a temporary
7 placement has been made, the division shall arrange an additional family support
8 team meeting prior to taking any action relating to the placement of such child;
9 except that, when the welfare of a child in the custody of the division requires an
10 immediate or emergency change of placement, the division may make a temporary
11 placement and shall schedule a family support team meeting within seventy-two
12 hours. **The requirement for a family support team meeting shall not**
13 **apply when the parent has consented in writing to the termination of**
14 **his or her parental rights in conjunction with a placement with a**
15 **licensed child placing agency under subsection 6 of section 453.010,**
16 **RSMo.**

17 2. The parents, the legal counsel for the parents, the foster parents, the
18 legal guardian or custodian of the child, the guardian ad litem for the child, and
19 the volunteer advocate, and any designee of the parent that has written
20 authorization shall be notified and invited to participate in all family support
21 team meetings. The family support team meeting may include such other persons
22 whose attendance at the meeting may assist the team in making appropriate
23 decisions in the best interests of the child. If the division finds that it is not in
24 the best interest of a child to be placed with relatives, the division shall make
25 specific findings in the division's report detailing the reasons why the best
26 interests of the child necessitate placement of the child with persons other than
27 relatives.

28 3. The division shall use the form created in subsection 2 of section

29 210.147 to be signed upon the conclusion of the meeting pursuant to subsection
30 1 of this section confirming that all involved parties are aware of the team's
31 decision regarding the custody and placement of the child. Any dissenting views
32 must be recorded and attested to on such form.

33 4. The case manager shall be responsible for including such form with the
34 case records of the child.

210.906. 1. Every child-care worker or elder-care worker hired on or after
2 January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall
3 complete a registration form provided by the department. The department shall
4 make such forms available no later than January 1, 2001, and may, by rule,
5 determine the specific content of such form, but every form shall:

- 6 (1) Request the valid Social Security number of the applicant;
7 (2) Include information on the person's right to appeal the information
8 contained in the registry pursuant to section 210.912;
9 (3) Contain the signed consent of the applicant for the background checks
10 required pursuant to this section; and
11 (4) Contain the signed consent for the release of information contained in
12 the background check for employment purposes only.

13 2. Every child-care worker or elder-care worker hired on or after January
14 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall
15 complete a registration form within fifteen days of the beginning of such person's
16 employment. Any person employed as a child-care, elder-care or personal-care
17 worker who fails to submit a completed registration form to the department of
18 health and senior services as required by sections 210.900 to 210.936 without
19 good cause, as determined by the department, is guilty of a class B misdemeanor.

20 3. The costs of the criminal background check may be paid by the
21 individual applicant, or by the provider if the applicant is so employed, or for
22 those applicants receiving public assistance, by the state through the terms of the
23 self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to
24 the patrol for the costs of the criminal background check shall be deposited to the
25 credit of the criminal record system fund as required by section 43.530, RSMo.

26 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be
27 automatically registered in the family care safety registry at no additional cost
28 other than the costs required pursuant to sections 210.481 to 210.565.

29 5. Any person not required to register pursuant to the provisions of
30 sections 210.900 to 210.936 may also be included in the registry if such person

31 voluntarily applies to the department for registration and meets the requirements
32 of this section and section 210.909, including submitting to the background checks
33 in subsection 1 of section 210.909.

34 6. The provisions of sections 210.900 to 210.936 shall not extend to related
35 child care, related elder care or related personal care **workers or attendants**
36 **who do not receive state or federal moneys for services.**

211.319. 1. On or before July 1, 2005, all juvenile court proceedings
2 conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for
3 termination of parental rights cases pursuant to sections 211.442 to 211.487
4 initiated by a juvenile officer or the division shall be open to the public; **except**
5 **that, when the parent has consented in writing to the termination of his**
6 **or her parental rights in conjunction with a placement with a licensed**
7 **child placing agency under subsection 6 of section 453.010, RSMo, the**
8 **hearing shall be closed.** The court, on its own motion, may exclude for good
9 cause shown any person or persons from the proceedings to protect the welfare
10 and best interests of the child and for exceptional circumstances. Any party to
11 a juvenile court proceeding referred to in this subsection, except the state, may
12 file a motion requesting that the general public be excluded from the proceeding
13 or any portion of the proceeding. Upon the filing of such motion, the court shall
14 hear arguments by the parties, but no evidence, and shall make a determination
15 whether closure is in the best interest of the parties or whether it is in the public
16 interest to deny such motion. The court shall make a finding on the record when
17 a motion to close a hearing pursuant to this section is made and heard by the
18 court.

19 2. Notwithstanding the provisions of subsection 1 of this section, the
20 general public shall be excluded from all juvenile court proceedings referred to
21 in subsection 1 of this section during the testimony of any child or victim and
22 only such persons who have a direct interest in the case or in the work of the
23 court will be admitted to the proceedings.

24 3. For juvenile court proceedings described in subsection 1 of this section,
25 pleadings and orders of the juvenile court other than confidential files and those
26 specifically ordered closed by the juvenile court judge shall be open to the general
27 public. For purposes of this section, "confidential file" means all other records
28 and reports considered closed or confidential by law, including but not limited to
29 medical reports, psychological or psychiatric evaluations, investigation reports of
30 the children's division, social histories, home studies, and police reports and law

31 enforcement records. Only persons who are found by the court to have a
32 legitimate interest shall be allowed access to confidential or closed files. In
33 determining whether a person has a legitimate interest, the court shall consider
34 the nature of the proceedings, the welfare and safety of the public, and the
35 interest of any child involved.

36 4. For records made available to the public pursuant to this section:

37 (1) The identity of any child involved except the perpetrator shall not be
38 disclosed and all references in such records to the identity of any child involved
39 except the perpetrator shall be redacted prior to disclosure to the public; and

40 (2) All information that may identify or lead to the disclosure of the
41 identity of a reporter of child abuse under sections 210.109 to 210.183, RSMo, and
42 section 352.400, RSMo, shall not be disclosed to the public.

43 5. The provisions of this section shall apply to juvenile court proceedings
44 and records specified in this section in which the initial pleadings are filed on or
45 after July 1, 2005.

211.444. 1. The juvenile court may, upon petition of the juvenile officer
2 **or a child placing agency licensed under sections 210.481 to 210.536,**
3 **RSMo, in conjunction with a placement with such licensed child placing**
4 **agency under subsection 6 of section 453.010, RSMo,** or the court before
5 which a petition for adoption has been filed pursuant to the provisions of chapter
6 453, RSMo, terminate the rights of a parent to a child if the court finds that such
7 termination is in the best interests of the child and the parent has consented in
8 writing to the termination of his or her parental rights.

9 2. The written consent required by subsection 1 of this section may be
10 executed before or after the institution of the proceedings and shall be
11 acknowledged before a notary public. In lieu of such acknowledgment, the
12 signature of the person giving the written consent shall be witnessed by at least
13 two adult persons who are present at the execution whose signatures and
14 addresses shall be plainly written thereon and who determine and certify that the
15 consent is knowingly and freely given. The two adult witnesses shall not be the
16 prospective parents. The notary public or witnesses shall verify the identity of
17 the party signing the consent.

18 3. The written consent required by subsection 1 of this section shall be
19 valid and effective only after the child is at least forty-eight hours old and if it
20 complies with the other requirements of section 453.030, RSMo.

453.010. 1. Any person desiring to adopt another person as his or her

2 child shall petition the juvenile division of the circuit court of the county in
3 which:

- 4 (1) The person seeking to adopt resides;
- 5 (2) The child sought to be adopted was born;
- 6 (3) The child is located at the time of the filing of the petition; or
- 7 (4) Either birth person resides.

8 2. A petition to adopt shall not be dismissed or denied on the grounds that
9 the petitioner is not domiciled or does not reside in any of the venues set forth in
10 subdivision (2), (3) or (4) of subsection 1 of this section.

11 3. If the person sought to be adopted is a child who is under the prior and
12 continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo,
13 any person desiring to adopt such person as his or her child shall petition the
14 juvenile division of the circuit court which has jurisdiction over the child for
15 permission to adopt such person as his or her child. Upon receipt of a motion
16 from the petitioner and consent of the receiving court, the juvenile division of the
17 circuit court which has jurisdiction over the child may transfer jurisdiction to the
18 juvenile division of a circuit court within any of the alternative venues set forth
19 in subsection 1 of this section.

20 4. If the petitioner has a spouse living and competent to join in the
21 petition, such spouse may join therein, and in such case the adoption shall be by
22 them jointly. If such a spouse does not join the petition the court in its discretion
23 may, after a hearing, order such joinder, and if such order is not complied with
24 may dismiss the petition.

25 5. Upon receipt of a properly filed petition, a court, as defined in this
26 section, shall hear such petition in a timely fashion. A court or any child-placing
27 agency shall not deny or delay the placement of a child for adoption when an
28 approved family is available, regardless of the approved family's residence or
29 domicile. The court shall expedite the placement of a child for adoption pursuant
30 to subsection 3 of this section.

31 **6. A licensed child placing agency may file a petition for transfer**
32 **of custody if a birth parent consents in writing, by power of attorney**
33 **for the placement of a minor child, a consent to adoption or any other**
34 **document which evidences a desire to place the child with the licensed**
35 **child placing agency, for the purposes of transfer of custody of the**
36 **child to the licensed child placing agency.**

453.011. 1. In all cases [in which] involving the termination of parental

2 rights, **placement**, or adoption of a child [is], **whether voluntary or** contested
3 by any person or agency, the [trial] court shall, consistent with due process,
4 expedite the [contested] termination, **placement**, or adoption proceeding by
5 entering such scheduling orders as are necessary to ensure that the case is not
6 delayed, and such case shall be given priority in setting a final hearing of the
7 proceeding and shall be heard at the earliest possible date over other civil
8 litigation, other than **children's** division [of family services'] child protection
9 cases.

10 2. In all **contested** cases as specified in subsection 1 of this section which
11 are appealed from the decision of a trial court:

12 (1) The transcript from the prior court proceeding shall be provided to the
13 appellate court no later than thirty days from the date the appeal is filed; and

14 (2) The appellate court shall, consistent with its rules, expedite the
15 contested termination of parental rights or adoption case by entering such
16 scheduling orders as are necessary to ensure that a ruling will be entered within
17 thirty days of the close of oral arguments, and such case shall be given priority
18 over all other civil litigation, other than **children's** division [of family services']
19 child protection cases, in reaching a determination on the status of the
20 termination of parental rights or of the adoption; and

21 (3) In no event shall the court permit more than one request for an
22 extension by either party.

23 3. It is the intent of the general assembly that the permanency of the
24 placement of a child who is the subject of a termination of parental rights
25 proceeding, **a placement proceeding**, or an adoption proceeding not be delayed
26 any longer than is absolutely necessary consistent with the rights of all parties,
27 but that the rights of the child to permanency at the earliest possible date be
28 given priority over all other civil litigation other than **children's** division [of
29 family services'] child protection cases.

559.100. 1. The circuit courts of this state shall have power, herein
2 provided, to place on probation or to parole persons convicted of any offense over
3 which they have jurisdiction, except as otherwise provided in sections 195.275 to
4 195.296, [RSMo, section] 558.018, [RSMo, section] **559.115**, 565.020, [RSMo,
5 section] **565.180, 565.182, 565.200, 570.145, and 571.015**, [RSMo, and section
6 559.115] RSMo.

7 2. The circuit court shall have the power to revoke the probation or parole
8 previously granted and commit the person to the department of corrections. The

9 circuit court shall determine any conditions of probation or parole for the
10 defendant that it deems necessary to ensure the successful completion of the
11 probation or parole term, including the extension of any term of supervision for
12 any person while on probation or parole. The circuit court may require that the
13 defendant pay restitution for his crime. The probation or parole may be revoked
14 for failure to pay restitution or for failure to conform his behavior to the
15 conditions imposed by the circuit court. The circuit court may, in its discretion,
16 credit any period of probation or parole as time served on a sentence.

565.180. 1. A person commits the crime of elder abuse in the first degree
2 if he attempts to kill, knowingly causes or attempts to cause serious physical
3 injury, as defined in section 565.002, to any person sixty years of age or older or
4 an eligible adult as defined in section [660.250] **192.2100**, RSMo.

5 2. Elder abuse in the first degree is a class A felony.

6 **3. No court may suspend the imposition or execution of sentence**
7 **or impose a fine in lieu of a term of imprisonment when a person**
8 **pleads guilty to or is found guilty of elder abuse in the first degree.**

565.182. 1. A person commits the crime of elder abuse in the second
2 degree if he:

3 (1) Knowingly causes, attempts to cause physical injury to any person
4 sixty years of age or older or an eligible adult, as defined in section [660.250]
5 **192.2100**, RSMo, by means of a deadly weapon or dangerous instrument; or

6 (2) Recklessly [and purposely] causes serious physical injury, as defined
7 in section 565.002, to a person sixty years of age or older or an eligible adult as
8 defined in section [660.250] **192.2100**, RSMo.

9 2. Elder abuse in the second degree is a class B felony.

10 **3. No court may suspend the imposition or execution of sentence**
11 **or impose a fine in lieu of a term of imprisonment when a person**
12 **pleads guilty to or is found guilty pursuant to subdivision (1) of**
13 **subsection 1 of this section.**

565.184. 1. A person commits the crime of elder abuse in the third degree
2 if he:

3 (1) Knowingly causes or attempts to cause physical contact with any
4 person sixty years of age or older or an eligible adult as defined in section
5 [660.250] **192.2100**, RSMo, knowing the other person will regard the contact as
6 harmful or provocative; or

7 (2) Purposely engages in conduct involving more than one incident that

8 causes grave emotional distress to a person sixty years of age or older or an
9 eligible adult, as defined in section [660.250] **192.2100**, RSMo. The course of
10 conduct shall be such as would cause a reasonable person age sixty years of age
11 or older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo, to
12 suffer substantial emotional distress; or

13 (3) Purposely or knowingly places a person sixty years of age or older or
14 an eligible adult, as defined in section [660.250] **192.2100**, RSMo, in
15 apprehension of immediate physical injury; or

16 (4) Intentionally fails to provide care, goods or services to a person sixty
17 years of age or older or an eligible adult, as defined in section [660.250]
18 **192.2100**, RSMo. The cause of the conduct shall be such as would cause a
19 reasonable person age sixty or older or an eligible adult, as defined in section
20 [660.250] **192.2100**, RSMo, to suffer physical or emotional distress; or

21 (5) Knowingly acts or knowingly fails to act in a manner which results in
22 a grave risk to the life, body or health of a person sixty years of age or older or
23 an eligible adult, as defined in section [660.250] **192.2100**, RSMo.

24 2. Elder abuse in the third degree is a class [A misdemeanor] **D felony**.

565.188. 1. When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of
3 social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; funeral
5 director; home health agency or home health agency employee; hospital and clinic
6 personnel engaged in examination, care, or treatment of persons; in-home services
7 owner, provider, operator, or employee; law enforcement officer; long-term care
8 facility administrator or employee; medical examiner; medical resident or intern;
9 mental health professional; minister; nurse; nurse practitioner; optometrist; other
10 health practitioner; peace officer; pharmacist; physical therapist; physician;
11 physician's assistant; podiatrist; probation or parole officer; psychologist; social
12 worker; or other person with responsibility for the care of a person sixty years of
13 age or older has reasonable cause to suspect that such a person has been
14 subjected to abuse or neglect, **or financial exploitation**, or observes such a
15 person being subjected to conditions or circumstances which would reasonably
16 result in abuse or neglect, **or financial exploitation**, he or she shall
17 immediately report or cause a report to be made to the department in accordance
18 with the provisions of sections [660.250 to 660.295] **192.2100 to 192.2130**,
19 RSMo. Any other person who becomes aware of circumstances which may

20 reasonably be expected to be the result of or result in abuse or neglect, **or**
21 **financial exploitation** may report to the department.

22 2. Any person who knowingly fails to make a report as required in
23 subsection 1 of this section is guilty of a class A misdemeanor.

24 3. Any person who purposely files a false report of elder abuse or neglect
25 **or financial exploitation of the elderly** is guilty of a class A misdemeanor.

26 4. Every person who has been previously convicted of or pled guilty to
27 making a false report to the department and who is subsequently convicted of
28 making a false report under subsection 3 of this section is guilty of a class D
29 felony.

30 5. Evidence of prior convictions of false reporting shall be heard by the
31 court, out of the hearing of the jury, prior to the submission of the case to the
32 jury, and the court shall determine the existence of the prior convictions.

565.200. 1. Any owner or employee of a skilled nursing facility, as defined
2 in section 198.006, RSMo, or an Alzheimer's special unit or program, as defined
3 in section 198.505, RSMo, who:

4 (1) Has sexual contact, as defined in section 566.010, RSMo, with a
5 resident is guilty of a class [B] A misdemeanor. Any person who commits a
6 second or subsequent violation of this subdivision is guilty of a class [A
7 misdemeanor] **D felony**; or

8 (2) Has sexual intercourse or deviate sexual intercourse, as defined in
9 section 566.010, RSMo, with a resident is guilty of a class [A misdemeanor] **C**
10 **felony**. Any person who commits a second or subsequent violation of this
11 subdivision is guilty of a class [D] **B felony**. **No court may suspend the**
12 **imposition or execution of sentence or impose a fine in lieu of a term**
13 **of imprisonment when a person pleads guilty to or is found guilty of**
14 **committing a second or subsequent violation of this subdivision.**

15 2. The provisions of this section shall not apply to an owner or employee
16 of a skilled nursing facility or Alzheimer's special unit or program who engages
17 in sexual conduct, as defined in section 566.010, RSMo, with a resident to whom
18 the owner or employee is married.

19 3. Consent of the victim is not a defense to a prosecution pursuant to this
20 section.

565.320. 1. As used in this section the following terms shall
2 mean:

3 (1) "Crime of violence", any crime which involved the threat or

4 use of physical force against an elderly person;

5 (2) "Elderly", a person sixty years of age or older.

6 2. Notwithstanding any other provision of law no court shall
7 sentence a person who has pled guilty or nolo contendere to or has
8 been found guilty of a crime of violence against the elderly to a term
9 of imprisonment of less than thirty consecutive days or to pay a fine in
10 lieu of a term of imprisonment, nor shall such person be eligible for
11 parole or probation until he or she has served a minimum of thirty
12 consecutive days of imprisonment.

570.145. 1. A person commits the crime of financial exploitation of an
2 elderly or disabled person if such person knowingly and by deception,
3 intimidation, or force obtains control over the elderly or disabled person's
4 property with the intent to permanently deprive the elderly or disabled person
5 of the use, benefit or possession of his or her property thereby benefiting such
6 person or detrimentally affecting the elderly or disabled person. Financial
7 exploitation of an elderly or disabled person is a class A misdemeanor if the value
8 of the property is less than fifty dollars[,]; a class D felony if the value of the
9 property is fifty dollars but less than five hundred dollars[,]; a class C felony if
10 the value of the property is five hundred dollars but less than one thousand
11 dollars[,]; a class B felony if the value of the property is one thousand dollars
12 [but less than fifty thousand dollars, and a class A felony if the value of the
13 property is fifty thousand dollars] or more. **No court may suspend the
14 imposition or execution of sentence or impose a fine in lieu of a term
15 of imprisonment when a person pleads guilty to or is found guilty of a
16 violation of this section when punishable as a class B felony.**

17 2. For purposes of this section, the following terms mean:

18 (1) "Deception", a misrepresentation or concealment of material fact
19 relating to the terms of a contract or agreement entered into with the elderly or
20 disabled person or to the existing or preexisting condition of any of the property
21 involved in such contract or agreement, or the use or employment of any
22 misrepresentation, false pretense or false promise in order to induce, encourage
23 or solicit the elderly or disabled person to enter into a contract or
24 agreement. Deception includes:

25 (a) Creating or confirming another person's impression which is false and
26 which the offender does not believe to be true; or

27 (b) Failure to correct a false impression which the offender previously has

28 created or confirmed; or

29 (c) Preventing another person from acquiring information pertinent to the
30 disposition of the property involved; or

31 (d) Selling or otherwise transferring or encumbering property, failing to
32 disclose a lien, adverse claim or other legal impediment to the enjoyment of the
33 property, whether such impediment is or is not valid, or is or is not a matter of
34 official record; or

35 (e) Promising performance which the offender does not intend to perform
36 or knows will not be performed. Failure to perform standing alone is not
37 sufficient evidence to prove that the offender did not intend to perform;

38 (2) "Disabled person", a person with a mental, physical, or developmental
39 disability that substantially impairs the person's ability to provide adequately for
40 the person's care or protection;

41 (3) "Elderly person", a person sixty years of age or older;

42 (4) "Intimidation", a threat of physical or emotional harm to an elderly or
43 disabled person, or the communication to an elderly or disabled person that he
44 or she will be deprived of food and nutrition, shelter, prescribed medication, or
45 medical care and treatment.

46 3. Nothing in this section shall be construed to limit the remedies
47 available to the victim pursuant to any state law relating to domestic violence.

48 4. Nothing in this section shall be construed to impose criminal liability
49 on a person who has made a good faith effort to assist the elderly or disabled
50 person in the management of his or her property, but through no fault of his or
51 her own has been unable to provide such assistance.

52 5. Nothing in this section shall limit the ability to engage in bona fide
53 estate planning, to transfer property and to otherwise seek to reduce estate and
54 inheritance taxes; provided that such actions do not adversely impact the
55 standard of living to which the elderly or disabled person has become accustomed
56 at the time of such actions.

57 6. It shall not be a defense to financial exploitation of an elderly or
58 disabled person that the accused reasonably believed that the victim was not an
59 elderly or disabled person.

[197.500. 1. The department shall maintain an employee
2 disqualification list and place on the employee disqualification list
3 the names of any persons who are or who have been employed by
4 any entity licensed pursuant to this chapter and who have been

5 finally determined by the department pursuant to section 660.315,
6 RSMo, to have knowingly or recklessly abused or neglected a
7 patient. For the purpose of this section, "abuse" and "neglect" shall
8 have the same meanings as such terms are defined in section
9 198.006, RSMo. For purposes of this section only, "knowingly" and
10 "recklessly" shall have the meanings that are ascribed to them in
11 this section. A person acts "knowingly" with respect to the person's
12 conduct when a reasonable person should be aware of the result
13 caused by his or her conduct. A person acts "recklessly" when the
14 person consciously disregards a substantial and unjustifiable risk
15 that the person's conduct will result in serious physical injury and
16 such disregard constitutes a gross deviation from the standard of
17 care that a reasonable person would exercise in the situation.

18 2. The department shall compile and maintain an employee
19 disqualification list in the same manner as the employee
20 disqualification list compiled and maintained by the department
21 pursuant to section 660.315, RSMo.]

[208.915. 1. Any person having reasonable cause to believe
2 that a misappropriation of a consumer's property or funds, or the
3 falsification of any documents verifying personal care assistance
4 services delivery to the consumer, has occurred may report such
5 information to the department.

6 2. For each report the department shall attempt to obtain
7 the name and address of the vendor, the personal care attendant,
8 the personal care assistance services consumer, information
9 regarding the nature of the misappropriation or falsification, the
10 name of the complainant, and any other information which might
11 be helpful in an investigation.

12 3. Any personal care assistance services vendor, or personal
13 care attendant who puts to his or her own use or the use of the
14 personal care assistance services vendor or otherwise diverts from
15 the personal care assistance services consumer's use any personal
16 property or funds of the consumer, or falsifies any documents for
17 service delivery, is guilty of a class A misdemeanor.

18 4. Upon receipt of a report, the department shall
19 immediately initiate an investigation and report information

20 gained from such investigation to appropriate law enforcement
21 authorities.

22 5. If the investigation indicates probable misappropriation
23 of property or funds, or falsification of any documents for service
24 delivery of a personal care assistance services consumer, the
25 investigator shall refer the complaint together with the
26 investigator's report to the department director or the director's
27 designee for appropriate action.

28 6. Reports shall be confidential, as provided under section
29 660.320, RSMo.

30 7. Anyone, except any person participating in or benefitting
31 from the misappropriation of funds, who makes a report under this
32 section or who testifies in any administrative or judicial proceeding
33 arising from the report shall be immune from any civil or criminal
34 liability for making such a report or for testifying except for
35 liability for perjury, unless such person acted negligently,
36 recklessly, in bad faith, or with malicious purpose.

37 8. Within five working days after a report required to be
38 made under this section is received, the person making the report
39 shall be notified in writing of its receipt and of the initiation of the
40 investigation.

41 9. No person who directs or exercises any authority in a
42 personal care assistance services vendor agency shall harass,
43 dismiss or retaliate against a personal care assistance services
44 consumer or a personal care attendant because he or she or any
45 member of his or her family has made a report of any violation or
46 suspected violation of laws, ordinances or regulations applying to
47 the personal care assistance services vendor or any personal care
48 attendant which he or she has reasonable cause to believe has been
49 committed or has occurred.

50 10. The department shall maintain the employee
51 disqualification list and place on the employee disqualification list
52 the names of any personal care attendants who are or have been
53 employed by a personal care assistance services consumer, and the
54 names of any persons who are or have been employed by a vendor
55 as defined in subdivision (10) of section 208.900, and who have

56 been finally determined by the department under section 660.315,
57 RSMo, to have misappropriated any property or funds, or falsified
58 any documents for service delivery to a personal care assistance
59 services consumer and who came to be known to the consumer,
60 directly or indirectly by virtue of the consumer's participation in
61 the personal care assistance services program.]

 [210.570. Within sixty days after sections 210.570 to
2 210.600 become effective, the governor, by and with the advice and
3 consent of the senate, shall appoint three commissioners to enter
4 into a compact on behalf of the state of Missouri with other states.
5 If the senate is not in session at the time for making such
6 appointments, the governor shall make temporary appointments as
7 in the case of a vacancy. Any two of the commissioners so
8 appointed together with the attorney general of the state of
9 Missouri may act to enter into the following compact:

10 INTERSTATE COMPACT ON JUVENILES

11 The contracting states solemnly agree:

12 ARTICLE I

13 That juveniles who are not under proper supervision and
14 control, or who have absconded, escaped or run away, are likely to
15 endanger their own health, morals and welfare, and the health,
16 morals and welfare of others. The cooperation of the states party
17 to this compact is therefore necessary to provide for the welfare
18 and protection of juveniles and of the public with respect to (1)
19 cooperative supervision of delinquent juveniles on probation or
20 parole; (2) the return, from one state to another, of delinquent
21 juveniles who have escaped or absconded; (3) the return, from one
22 state to another, of nondelinquent juveniles who have run away
23 from home; and (4) additional measures for the protection of
24 juveniles and of the public, which any two or more of the party
25 states may find desirable to undertake cooperatively. In carrying
26 out the provisions of this compact the party states shall be guided
27 by the noncriminal, reformatory and protective policies which guide
28 their laws concerning delinquent, neglected or dependent juveniles
29 generally. It shall be the policy of the states party to this compact
30 to cooperate and observe their respective responsibilities for the

31 prompt return and acceptance of juveniles and delinquent juveniles
32 who become subject to the provisions of this compact. The
33 provisions of this compact shall be reasonably and liberally
34 construed to accomplish the foregoing purposes.

35 ARTICLE II

36 That all remedies and procedures provided by this compact
37 shall be in addition to and not in substitution for other rights,
38 remedies and procedures, and shall not be in derogation of parental
39 rights and responsibilities.

40 ARTICLE III

41 That, for the purposes of this compact, "delinquent juvenile"
42 means any juvenile who has been adjudged delinquent and who, at
43 the time the provisions of this compact are invoked, is still subject
44 to the jurisdiction of the court that has made such adjudication or
45 to the jurisdiction or supervision of an agency or institution
46 pursuant to an order of such court; "probation or parole" means any
47 kind of conditional release of juveniles authorized under the laws
48 of the states party hereto; "court" means any court having
49 jurisdiction over delinquent, neglected or dependent children;
50 "state" means any state, territory or possession of the United
51 States, the District of Columbia, and the Commonwealth of Puerto
52 Rico; and "residence" or any variant thereof means a place at which
53 a home or regular place of abode is maintained.

54 ARTICLE IV

55 (a) That the parent, guardian, person or agency entitled to
56 legal custody of a juvenile who has not been adjudged delinquent
57 but who has run away without the consent of such parent,
58 guardian, person or agency may petition the appropriate court in
59 the demanding state for the issuance of a requisition for his
60 return. The petition shall state the name and age of the juvenile,
61 the name of the petitioner and the basis of entitlement to the
62 juvenile's custody, the circumstances of his running away, his
63 location if known at the time application is made, and such other
64 facts as may tend to show that the juvenile who has run away is
65 endangering his own welfare or the welfare of others and is not an
66 emancipated minor. The petition shall be verified by affidavit,

67 shall be executed in duplicate, and shall be accompanied by two
68 certified copies of the document or documents on which the
69 petitioner's entitlement to the juvenile's custody is based, such as
70 birth certificates, letters of guardianship, or custody decrees. Such
71 further affidavits and other documents as may be deemed proper
72 may be submitted with such petition. The judge of the court to
73 which this application is made may hold a hearing thereon to
74 determine whether for the purposes of this compact the petitioner
75 is entitled to the legal custody of the juvenile, whether or not it
76 appears that the juvenile has in fact run away without consent,
77 whether or not he is an emancipated minor, and whether or not it
78 is in the best interest of the juvenile to compel his return to the
79 state. If the judge determines, either with or without a hearing,
80 that the juvenile should be returned, he shall present to the
81 appropriate court or to the executive authority of the state where
82 the juvenile is alleged to be located a written requisition for the
83 return of such juvenile. Such requisition shall set forth the name
84 and age of the juvenile, the determination of the court that the
85 juvenile has run away without the consent of a parent, guardian,
86 person or agency entitled to his legal custody, and that it is in the
87 best interest and for the protection of such juvenile that he be
88 returned. In the event that a proceeding for the adjudication of the
89 juvenile as a delinquent, neglected or dependent juvenile is
90 pending in the court at the time when such juvenile runs away, the
91 court may issue a requisition for the return of such juvenile upon
92 its own motion, regardless of the consent of the parent, guardian,
93 person or agency entitled to legal custody, reciting therein the
94 nature and circumstances of the pending proceeding. The
95 requisition shall in every case be executed in duplicate and shall
96 be signed by the judge. One copy of the requisition shall be filed
97 with the compact administrator of the demanding state, there to
98 remain on file subject to the provisions of law governing records of
99 such court. Upon the receipt of a requisition demanding the return
100 of a juvenile who has run away, the court or the executive
101 authority to whom the requisition is addressed shall issue an order
102 to any peace officer or other appropriate person directing him to

103 take into custody and detain such juvenile. Such detention order
104 must substantially recite the facts necessary to the validity of its
105 issuance hereunder. No juvenile detained upon such order shall be
106 delivered over to the officer whom the court demanding him shall
107 have appointed to receive him, unless he shall first be taken
108 forthwith before a judge of a court in the state, who shall inform
109 him of the demand made for his return, and who may appoint
110 counsel or guardian ad litem for him. If the judge of such court
111 shall find that the requisition is in order, he shall deliver such
112 juvenile over to the officer whom the court demanding him shall
113 have appointed to receive him. The judge, however, may fix a
114 reasonable time to be allowed for the purpose of testing the legality
115 of the proceeding.

116 Upon reasonable information that a person is a juvenile who
117 has run away from another state party to this compact without the
118 consent of a parent, guardian, person or agency entitled to his legal
119 custody, such juvenile may be taken into custody without a
120 requisition and brought forthwith before a judge of the appropriate
121 court who may appoint counsel or guardian ad litem for such
122 juvenile and who shall determine after a hearing whether sufficient
123 cause exists to hold the person, subject to the order of the court, for
124 his own protection and welfare, for such a time not exceeding
125 ninety days as will enable his return to another state party to this
126 compact pursuant to a requisition for his return from a court of
127 that state. If, at the time when a state seeks the return of a
128 juvenile who has run away, there is pending in the state wherein
129 he is found any criminal charge, or any proceeding to have him
130 adjudicated a delinquent juvenile for an act committed in such
131 state, or if he is suspected of having committed within such state
132 a criminal offense or an act of juvenile delinquency, he shall not be
133 returned without the consent of such state until discharged from
134 prosecution or other form of proceeding, imprisonment, detention
135 or supervision for such offense or juvenile delinquency. The duly
136 accredited officers of any state party to this compact, upon the
137 establishment of their authority and the identity of the juvenile
138 being returned, shall be permitted to transport such juvenile

139 through any and all states party to this compact, without
140 interference. Upon his return to the state from which he ran away,
141 the juvenile shall be subject to such further proceedings as may be
142 appropriate under the laws of that state.

143 (b) That the state to which a juvenile is returned under this
144 Article shall be responsible for payment of the transportation costs
145 of such return.

146 (c) That "juvenile" as used in this Article means any person
147 who is a minor under the law of the state of residence of the
148 parent, guardian, person or agency entitled to the legal custody of
149 such minor.

150 ARTICLE V

151 (a) That the appropriate person or authority from whose
152 probation or parole supervision a delinquent juvenile has
153 absconded or from whose institutional custody he has escaped shall
154 present to the appropriate court or to the executive authority of the
155 state where the delinquent juvenile is alleged to be located a
156 written requisition for the return of such delinquent juvenile. Such
157 requisition shall state the name and age of the delinquent juvenile,
158 the particulars of his adjudication as a delinquent juvenile, the
159 circumstances of the breach of the terms of his probation or parole
160 or of his escape from an institution or agency vested with his legal
161 custody or supervision, and the location of such delinquent
162 juvenile, if known, at the time the requisition is made. The
163 requisition shall be verified by affidavit, shall be executed in
164 duplicate, and shall be accompanied by two certified copies of the
165 judgment, formal adjudication, or order of commitment which
166 subjects such delinquent juvenile to probation or parole or to the
167 legal custody of the institution or agency concerned. Such further
168 affidavits and other documents as may be deemed proper may be
169 submitted with such requisition. One copy of the requisition shall
170 be filed with the compact administrator of the demanding state,
171 there to remain on file subject to the provisions of law governing
172 records of the appropriate court. Upon the receipt of a requisition
173 demanding the return of a delinquent juvenile who has absconded
174 or escaped, the court or the executive authority to whom the

175 requisition is addressed shall issue an order to any peace officer or
176 other appropriate person directing him to take into custody and
177 detain such delinquent juvenile. Such detention order must
178 substantially recite the facts necessary to the validity of the
179 issuance hereunder. No delinquent juvenile detained upon such
180 order shall be delivered over to the officer whom the appropriate
181 person or authority demanding him shall have appointed to receive
182 him, unless he shall first be taken forthwith before a judge of an
183 appropriate court in the state, who shall inform him of the demand
184 made for his return and who may appoint counsel or guardian ad
185 litem for him. If the judge of such court shall find that the
186 requisition is in order, he shall deliver such delinquent juvenile
187 over to the officer whom the appropriate person or authority
188 demanding him shall have appointed to receive him. The judge,
189 however, may fix a reasonable time to be allowed for the purpose
190 of testing the legality of the proceeding.

191 Upon reasonable information that a person is a delinquent
192 juvenile who has absconded while on probation or parole, or
193 escaped from an institution or agency vested with his legal custody
194 or supervision in any state party to this compact, such person may
195 be taken into custody in any other state party to this compact
196 without a requisition. But in such event, he must be taken
197 forthwith before a judge of the appropriate court, who may appoint
198 counsel or guardian ad litem for such person and who shall
199 determine, after a hearing, whether sufficient cause exists to hold
200 the person subject to the order of the court for such a time, not
201 exceeding ninety days, as will enable his detention under a
202 detention order issued on a requisition pursuant to this Article. If,
203 at the time when a state seeks the return of a delinquent juvenile
204 who has either absconded while on probation or parole or escaped
205 from an institution or agency vested with his legal custody or
206 supervision, there is pending in the state wherein he is detained
207 any criminal charge or any proceeding to have him adjudicated a
208 delinquent juvenile for an act committed in such state, or if he is
209 suspected of having committed within such state a criminal offense
210 or an act of juvenile delinquency, he shall not be returned without

the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state

247 demanding his return, and shall cause to be delivered to such
248 officer or officers a copy of the consent. The court may, however,
249 upon the request of the state to which the juvenile or delinquent
250 juvenile is being returned, order him to return unaccompanied to
251 such state and shall provide him with a copy of such court order;
252 in such event a copy of the consent shall be forwarded to the
253 compact administrator of the state to which said juvenile or
254 delinquent juvenile is ordered to return.

255

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

281 (c) That, after consultation between the appropriate
282 authorities of the sending state and of the receiving state as to the

desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be

319 responsible pursuant to Articles IV(b), V(b) or VII(d) of this
320 compact.

321 ARTICLE IX

322 That, to every extent possible, it shall be the policy of states
323 party to this compact that no juvenile or delinquent juvenile shall
324 be placed or detained in any prison, jail or lockup nor be detained
325 or transported in association with criminal, vicious or dissolute
326 persons.

327 ARTICLE X

328 That the duly constituted administrative authorities of a
329 state party to this compact may enter into supplementary
330 agreements with any other state or states party hereto for the
331 cooperative care, treatment and rehabilitation of delinquent
332 juveniles whenever they shall find that such agreements will
333 improve the facilities or programs available for such care,
334 treatment and rehabilitation. Such care, treatment and
335 rehabilitation may be provided in an institution located within any
336 state entering into such supplementary agreement. Such
337 supplementary agreements shall (1) provide the rates to be paid for
338 the care, treatment and custody of such delinquent juveniles,
339 taking into consideration the character of facilities, services and
340 subsistence furnished; (2) provide that the delinquent juvenile shall
341 be given a court hearing prior to his being sent to another state for
342 care, treatment and custody; (3) provide that the state receiving
343 such a delinquent juvenile in one of its institutions shall act solely
344 as agent for the state sending such delinquent juvenile; (4) provide
345 that the sending state shall at all times retain jurisdiction over
346 delinquent juveniles sent to an institution in another state; (5)
347 provide for reasonable inspection of such institutions by the
348 sending state; (6) provide that the consent of the parent, guardian,
349 person or agency entitled to the legal custody of said delinquent
350 juvenile shall be secured prior to his being sent to another state;
351 and (7) make provision for such other matters and details as shall
352 be necessary to protect the rights and equities of such delinquent
353 juveniles and of the cooperating states.

354 ARTICLE XI

355 That any state party to this compact may accept any and all
356 donations, gifts and grants of money, equipment and services from
357 the federal or any local government, or any agency thereof and
358 from any person, firm or corporation, for any of the purposes and
359 functions of this compact, and may receive and utilize the same
360 subject to the terms, conditions and regulations governing such
361 donations, gifts and grants.

362 ARTICLE XII

363 That the governor of each state party to this compact shall
364 designate an officer who, acting jointly with like officers of other
365 party states, shall promulgate rules and regulations to carry out
366 more effectively the terms and provisions of this compact.

367 ARTICLE XIII

368 That this compact shall become operative immediately upon
369 its execution by any state as between it and any other state or
370 states so executing. When executed it shall have the full force and
371 effect of law within such state, the form of execution to be in
372 accordance with the laws of the executing state.

373 ARTICLE XIV

374 That this compact shall continue in force and remain
375 binding upon each executing state until renounced by
376 it. Renunciation of this compact shall be by the same authority
377 which executed it, by sending six months' notice in writing of its
378 intention to withdraw from the compact to the other states party
379 hereto. The duties and obligations of a renouncing state under
380 Article VII hereof shall continue as to parolees and probationers
381 residing therein at the time of withdrawal until retaken or finally
382 discharged. Supplementary agreements entered into under Article
383 X hereof shall be subject to renunciation as provided by such
384 supplementary agreements, and shall not be subject to the six
385 months' renunciation notice of the present Article.

386 ARTICLE XV

387 That the provisions of this compact shall be severable and
388 if any phrase, clause, sentence or provision of this compact is
389 declared to be contrary to the constitution of any participating
390 state or of the United States or the applicability thereof to any

391 government, agency, person or circumstance is held invalid, the
392 validity of the remainder of this compact and the applicability
393 thereof to any government, agency, person or circumstance shall
394 not be affected thereby. If this compact shall be held contrary to
395 the constitution of any state participating therein, the compact
396 shall remain in full force and effect as to the remaining states and
397 in full force and effect as to the state affected as to all severable
398 matters.]

[210.595. The term "delinquent juvenile" as used in the
2 interstate compact on juveniles includes those persons subject to
3 the jurisdiction of the juvenile court within the meaning of
4 subdivisions (1) and (2) of section 211.031, RSMo.]

[210.600. The commission shall have power to apply to the
2 Congress of the United States for its consent and approval of the
3 compact; but in the absence of such consent of Congress and until
4 the same shall have been secured, the compact shall be binding
5 upon the state of Missouri in all respects permitted by law for the
6 signatory states without the consent of Congress to cooperate, for
7 the purposes enumerated in the compact, and in the manner
8 provided therein.]

[210.610. 1. This section shall provide remedies, and shall
2 be binding only as among and between those party states which
3 specifically adopt a similar section.

4 2. All provisions and procedures of article V and article VI
5 of section 210.570 shall be construed to apply to any juvenile
6 charged with being a delinquent by reason of violating any criminal
7 law which constitutes a felony. Any juvenile charged with being a
8 delinquent by reason of violating any criminal law which
9 constitutes a felony shall be returned to the requesting state upon
10 a requisition to the state where the juvenile may be found. A
11 petition in such case shall be filed in a court of competent
12 jurisdiction in the requesting state where the violation of criminal
13 law is alleged to have been committed. The petition may be filed
14 regardless of whether the juvenile has left the requesting state
15 before or after the filing of the petition. The requisition described
16 in article V of section 210.570 shall be forwarded by the judge of

17 the court in which the petition has been filed.]

2 [660.305. 1. Any person having reasonable cause to believe
3 that a misappropriation of an in-home services client's property or
4 funds, or the falsification of any documents verifying service
5 delivery to the in-home services client has occurred, may report
6 such information to the department.

7 2. For each report the department shall attempt to obtain
8 the names and addresses of the in-home services provider agency,
9 the in-home services employee, the in-home services client,
10 information regarding the nature of the misappropriation or
11 falsification, the name of the complainant, and any other
12 information which might be helpful in an investigation.

13 3. Any in-home services provider agency or in-home services
14 employee who puts to his or her own use or the use of the in-home
15 services provider agency or otherwise diverts from the in-home
16 services client's use any personal property or funds of the in-home
17 services client, or falsifies any documents for service delivery, is
18 guilty of a class A misdemeanor.

19 4. Upon receipt of a report, the department shall
20 immediately initiate an investigation and report information
21 gained from such investigation to appropriate law enforcement
22 authorities.

23 5. If the investigation indicates probable misappropriation
24 of property or funds, or falsification of any documents for service
25 delivery of an in-home services client, the investigator shall refer
26 the complaint together with the investigator's report to the
27 department director or the director's designee for appropriate
28 action.

29 6. Reports shall be confidential, as provided under section
30 660.320.

31 7. Anyone, except any person participating in or benefiting
32 from the misappropriation of funds, who makes a report pursuant
33 to this section or who testifies in any administrative or judicial
34 proceeding arising from the report shall be immune from any civil
35 or criminal liability for making such a report or for testifying
except for liability for perjury, unless such person acted

36 negligently, recklessly, in bad faith, or with malicious purpose.

37 8. Within five working days after a report required to be
38 made under this section is received, the person making the report
39 shall be notified in writing of its receipt and of the initiation of the
40 investigation.

41 9. No person who directs or exercises any authority in an
42 in-home services provider agency shall harass, dismiss or retaliate
43 against an in-home services client or employee because he or she
44 or any member of his or her family has made a report of any
45 violation or suspected violation of laws, ordinances or regulations
46 applying to the in-home services provider agency or any in-home
47 services employee which he or she has reasonable cause to believe
48 has been committed or has occurred.

49 10. The department shall maintain the employee
50 disqualification list and place on the employee disqualification list
51 the names of any persons who are or have been employed by an
52 in-home service provider agency and who have been finally
53 determined by the department to, pursuant to section 660.315,
54 have misappropriated any property or funds, or falsified any
55 documents for service delivery of an in-home services client and
56 who came to be known to the person, directly, or indirectly while
57 employed by an in-home services provider agency.]

[660.320. 1. Reports confidential under section 198.070,
2 RSMo, and sections 660.300 to 660.315 shall not be deemed a
3 public record and shall not be subject to the provisions of section
4 109.180, RSMo, or chapter 610, RSMo. The name of the
5 complainant or any person mentioned in the reports shall not be
6 disclosed unless:

7 (1) The complainant, resident or the in-home services client
8 mentioned agrees to disclosure of his or her name;

9 (2) The department determines that disclosure is necessary
10 in order to prevent further abuse, neglect, misappropriation of
11 property or funds, or falsification of any documents verifying
12 service delivery to an in-home services client;

13 (3) Release of a name is required for conformance with a
14 lawful subpoena;

15 (4) Release of a name is required in connection with a
16 review by the administrative hearing commission in accordance
17 with section 198.039, RSMo;

18 (5) The department determines that release of a name is
19 appropriate when forwarding a report of findings of an
20 investigation to a licensing authority; or

21 (6) Release of a name is requested by the division of family
22 services for the purpose of licensure under chapter 210, RSMo.

23 2. The department shall, upon request, provide to the
24 division of employment security within the department of labor and
25 industrial relations copies of the investigative reports that led to
26 an employee being placed on the disqualification list.]

 [660.512. No rule or portion of a rule promulgated under
2 the authority of chapter 210, RSMo, shall become effective unless
3 it has been promulgated pursuant to the provisions of section
4 536.024, RSMo.]

Bill ✓

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